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After the Supreme Word: The Effect of U.S. Supreme Court Decisions on Public Opinion

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by

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Dedication

This dissertation is dedicated to my father, Steven M. Unger.

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This project explores the role that the United States Supreme Court plays in shaping public opinion. Previous scholars have successfully demonstrated that political elites influence public opinion, but those researching the Court's influence on attitude change have reached mixed findings. I build on previous work in three important ways. First, I employ a method of attributing attitude change to the Court that is a theoretical and empirical improvement over previous ways of identifying those who should be influenced by the justices, "reception" of cases. By "reception", I mean whether an individual understands the Court's decisions. Second, I place Court decisions within the broader information environment that includes the cues sent to the public by other political elites. These cues may reinforce or undermine the justices' decision, which could amplify or undercut the effect of receiving cases on attitude change. Third, I take advantage of recent work on the dynamics of attitude change by interacting reception with one's relevant pre-existing beliefs and personal characteristics.

To test these assertions, I use a mixed method, multi-case design that combines existing survey research with original data collected from a quasi-experiment conducted in summer 2005. The results indicate that under certain conditions, receiving Court decisions is associated with attitude change on the issues involved in the cases. This project closes with several suggestions for future research including how to refine reception as a method of attributing attitude change to the Court.

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Chapter 1: Introduction

The fundamental question of this project is: Can the United States Supreme Court influence public opinion, and if so, how? The relationship between the Court and public opinion is not completely clear. The existing scholarship speaks to this question, but does not yet adequately answer it. I contend that elites drive changes in public opinion and that we do not know enough about the Court as an elite role-player in this process. By issuing decisions, the Court has the ability to focus elites and the public on an issue. This creates an elite debate on the issue that includes and responds to the Court's actions. The media deliver the elite debate, including the cues provided by the Court in its opinions, to a potentially persuadable public.

Previous research in public law has reached mixed findings on whether the Court is driving public opinion. I build on existing work in three important ways. First, I use a variable to attribute attitude change to the Court that is often overlooked by previous scholars: the effect of receiving the Court's cues on public opinion. I contend that "reception" of a case, which is measured by an individual's ability to demonstrate that he/she understood the decision, is an improvement over previous methods of identifying those who should be influenced by the Court. If the Court is driving public opinion, then its effect should be evident among those receiving the justices' elite cues. Second, I place the Court in political context by situating its message within the broader elite debate on the issues associated with the cases. Last, I account for several factors that should influence the probability that an individual will accept the new information provided by the Court and update his/her position on the issue associated with a case. These factors

include receiving cues from other political elites, one's affinity for the Court, political attributes, and personal characteristics. Together, this integrates the Court's message into a broader information environment and reflects some of the recent developments on the dynamics of attitude change.

To test these assertions, I investigate the effect of four cases—*Webster v. Reproductive Health Services* (1989),[1] *Stanford v. Kentucky*,[2] *Van Orden v. Perry* (2005),[3] and *McCreary County, Kentucky v. ACLU of Kentucky* (2005)[4]—on attitudes toward abortion, the death penalty, and public displays of the Ten Commandments. To do this, I combine original content analysis of media reports on the Court in 1989 and 2005 with (1) existing national panel survey data from 1989 and (2) an original quasi-experiment conducted in 2005. Using a multi-method approach, I investigate the effect of receiving elite cues from Supreme Court justices on attitude change and gain leverage on how the public responds to Court cases.

Whether the Supreme Court influences public opinion has implications for public policy, judicial decision-making, and its institutional legitimacy. By leading public opinion and increasing support for the Court's preferred policy position, policy implementation may become easier. Alternatively, if the Court is stimulating a backlash against its articulated position, then there will be more opposition to the policy and implementation can become significantly more difficult (Cannon and Johnson 1998). When the Court takes positions and shapes political debate on a topic, the policy choices

[1] 492 U.S. 490.
[2] 492 U.S. 361. *Stanford* was consolidated with *Wilkins v. Missouri*. Although they originally were two different cases, the Court issued one decision dealing with both cases. For the remainder of this project, I will refer to this case as *Stanford*.
[3] 545 U.S. 677.

of elected officials are altered as the legal and political landscape changes (Hoekstra 2003). Since changes in public opinion can affect judicial decision-making (Mishler and Sheehan 1993, Mishler and Sheehan 1996, Erikson, MacKuen, Stimson 2002, McGuire and Stimson 2004), the Court may be influencing the positions that justices take in the future by altering public attitudes on an issue.[5] Last, although there is evidence that the public's support for the Court does not vary given specific decisions (Caldeira and Gibson 1992, Gibson, Caldeira, and Spence 2003), some research demonstrates that agreement with decisions can translate into evaluations of the institution (Mondak 1994, Grosskopf and Mondak 1998, Price and Romantan 2004).

ORGANIZATION OF THIS PROJECT

The chapters that follow address the theoretical motivations of the project and empirical methods to asses the Court's influence on public opinion. Chapter Two surveys the existing public law literature on Court driven attitude change and theoretically derives the hypotheses tested in later chapters. I also develop reception as an improved method of attributing attitude change to the Court. This chapter highlights some of the similarities and differences between public law and American politics research on this topic.

Chapter Three continues to build reception of cases as a method for attributing attitude change to the Court and also places the Court in political context. This chapter begins with a discussion of the cues provided by the Court and other elites to the public. It also establishes reception rates for the cases and the individual-level determinants of receiving cases.

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[4] 545 U.S. 844.

In Chapters Four and Five, my focus changes to the effect of receiving Court decisions on public opinion. Chapter Four addresses the effect of receiving *Webster* and *Stanford* on abortion and death penalty attitudes. Chapter 5 examines the influence of receiving *Van Orden* and *McCreary* on attitudes toward publicly displaying the Ten Commandments.

As developed in Chapters Four and Five, the effect of Supreme Court decisions on public opinion should be influenced by several variables with the central factor being reception of the decision. If the Court is driving public opinion, it should be evident among those receiving its message. By measuring reception using whether an individual understands elite cue provided by the justices and accounting for other factors like consumption of the broader elite debate, I can better attribute any attitude change to the Court.

The analysis in Chapters Four and Five is presented in stages. The first stage establishes whether there was individual level attitude change on abortion, the death penalty, or support for public displays of the Ten Commandments after the Court cases. After discussing the nature and contours of attitude change, I compare those who received the cases to those who do not. This sets the stage for regression analysis to test the relevant hypotheses, which is followed by a discussion of the results.

Chapter Six concludes this project. The last chapter reviews the results of each chapter and discusses future avenues of research. The chapter also includes a discussion of the potential limitations of this study.

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[5] But see also Norpoth and Segal (1994) and Segal and Spaeth (2002, 1993) for an alternative perspective.

Chapter 2: The U.S. Supreme Court and Public Opinion: Elite Driven Attitude Change and Receiving Court Cases

The connection between the U.S. Supreme Court and public opinion has generated a substantial amount of research in political science. Much of this research focuses on public opinion as an "input" into judicial decision-making. Scholars frequently examine whether and how public opinion directly or indirectly influences the Court's decisions. Those studying the direct effect of public opinion on the Court generally focus on whether changes in mass attitudes systematically lead to changes in how justices decide cases. For example, if the public as a whole becomes more liberal, does this translate into more liberal decisions by the Court (e.g. Mishler and Sheehan 1993, Norpoth and Segal 1994, Stimson, MacKuen and Erikson 1995, Mishler and Sheehan 1996, Erikson, MacKuen and Stimson 2002, McGuire and Stimson 2004) or individual justices (Flemming and Wood 1997)? Other scholars look for the indirect effects of public opinion on judicial decision-making and focus on the importance of elections. From the indirect effect perspective, changes in public opinion produce different presidents and Senates, which eventually result in altering the Court's composition. As justices from the old regime retire, resign, or die, justices with beliefs in-line with the new law-making majority replace them (e.g. Dahl 1957, Segal and Spaeth 2002). While questions on the nature of public opinion as an "input" into judicial decision-making certainly exist, the research in this area is rather extensive.

There is also research on the "output" side of judicial decision-making, which explores the effect of Court cases on public opinion. One avenue of "output" research is

whether Court decisions translate into the public's evaluation of the institution (e.g. Mondak 1992, Grosskopf and Modak 1998, Hoekstra 2000, Gibson, Caldeira, and Spence 2003, Hoekstra 2003). The "output" side also includes work on how public opinion relates to the success of the Court as an organ of national policymaking and instrument of social change (e.g. Rosenberg 1991, Cannon and Johnson 1998).

This project focuses on a different "output" side question: does the U.S. Supreme Court influence attitude change on the issues associated with its cases, and if so, how? While there has been a fair amount of research on this question, the results for whether Court decisions influence attitude change are decidedly mixed. We still know little about the conditions under which the Court can influence public opinion. Consequently, it is unsurprising that we know even less about the individual-level characteristics that influence the effect of Court decisions on mass attitudes. Even an aspect of this topic with scholarly consensus, that the public must be aware of Court decisions in order to be influenced by them, generates inconsistent results from a variety of research designs.

The purpose of this chapter is three-fold. First, I examine the relevant literature on the effect of the Court on attitude change, which is typified by mixed findings. Second, I develop a theory of elite driven, Court induced attitude change that bridges the gap between American politics and public law. This theory hinges on "reception" of Court cases. By "reception", I mean that individuals must be *exposed* to Court cases and *understand* the decisions. Third, I summarize the data and methods used to investigate the effect of receiving *Webster, Stanford, Van Orden* and *McCreary* on the issues associated with the cases: abortion, the death penalty, and publicly displaying the Ten Commandments.

THE PUBLIC'S RESPONSE TO SUPREME COURT DECISIONS: MULTIPLE METHODS AND MIXED RESULTS

Compared to the impact of either the president or Congress, the existing literature on whether the Court can influence public opinion is limited (Caldeira 1991). While limited, it has grown since Caldeira's (1991) assessment of the field. Today, it is a methodologically diverse research area as scholars use national and local surveys, panel studies, and experimental designs. Given the success of other scholars connecting elite cues to public opinion (e.g. Zaller 1992, Adams 1997), it is surprising that the research in this area is characterized by mixed findings; in fact, we see sometimes little or no Court effect on mass attitudes. Although I contend that receiving elite cues provided by the Court influences public opinion, it is useful to discuss the findings of other scholars, especially those doubting the justices' ability to cause attitude change.

Early work on the Court's ability to shape public opinion focused on what Franklin and Kosaki (1989) dubbed the *positive response hypothesis.* Emanating from Dahl's (1957) seminal work, the *positive response hypothesis* asserts that the Court should be able to increase support for the policies it adopts because of its institutional legitimacy and special place in society as a neutral arbiter of law. However, when political scientists tested this hypothesis, there was little evidence of increased support for the Court's articulated positions (Barnum 1985, Marshall 1988, Marshall 1989). Scholars connected the apparent lack of attitude change to low public awareness of Court decisions resulting from sparse media attention to the cases and insulation of justices from elections (Rosenberg 1991, Page and Shapiro 1992, Segal and Spaeth 1993, Perry 1999, Segal, Spaeth and Benesh 2006). When there is evidence of attitude change on

issues, the changes in public opinion are not related to the Court, but are attributed to other political actors (Rosenberg 1991) or trends in public opinion since World War II (Barnum 1985, Page and Shapiro 1992). Using an experimental design, Bass and Thomas (1984) reach similar conclusions finding that the Court's position on an issue had no impact on policy evaluations. Recent experimental research echoes these conclusions as Clawson and Waltenberg (2003) found that several affirmative action decisions did not have a discernable impact on African Americans.

A growing body of research is demonstrating, however, that the public is more informed about (and influenced by) Court decisions than previous scholarship allowed. This includes the justices themselves who are convinced that Court decisions influence society (Perry 1991). The justices' desire to shape the public's response to their decisions manifests itself through systematic efforts to use the news media to increase public receptivity to cases, guard its legitimacy, encourage deference to the institution, and increase the chances of policy implementation (Davis 1994).

Previous studies also suggest that the Court can deliver its message to the public and that people can understand it. For some cases, sizable portions of survey respondents can name Court decisions that they like or dislike (Murphy and Tannenhaus 1968, Adamany and Grossman 1983), identify abortion cases (Franklin, Kosaki, and Krizter 1993, Franklin and Kosaki 1995) and are exposed to cases that originate in their community (Hoekstra and Segal 1996, Hoekstra 2000, Hoekstra 2003). This sometimes includes being able to discuss the basic contours of a decision even though many respondents could not match case names to specific outcomes. Although public awareness of salient Court activities does not reach the same level as other institutions or

events (Franklin, Kosaki and Kritzer 1993, Price and Zaller 1993), it should be sufficient for certain cases to have an effect on public opinion.

One reason for not finding a Court effect on public opinion in early studies is that the *positive response hypothesis* suggests unidirectional change that can overlook an important aspect of the story—a backlash against the policies adopted by the Court. Instead of moving toward the Court's articulated position, the public sometimes responds to decisions by losing support for policies announced in widely reported cases (Page, Shapiro, and Dempsey 1987). Where pre- and post-decision surveys exist, it appears that Rehnquist Court rulings led to a net decrease in support for the Court's articulated positions (Marshall 2004). Continuing the theme of creating opposition to its policy positions, the Court can reinvigorate once forgotten political elites by putting issues on the national agenda while attempting to bring an uncooperative minority into the developing national consensus on civil rights (Powe 2000). Recognizing the Court's activity can translate into policy evaluations, Caldeira (1986) concludes that actions by the Court rather than FDR decreased public support for the Court Packing Plan in the 1930s. There is also evidence that the public adjusted to the Court's shift to a more restrictive abortion policy by exhibiting increased support for the status quo when it was threatened by *Webster* (Wleizen and Goggin 1993).

Moving from the unidirectional change embodied in the *positive response hypothesis* and the backlash noted by others, Franklin and Kosaki (1989) posit that Court cases can cause structural changes in public opinion that may not be immediately apparent in national surveys. According to the *structural response hypothesis*, Court decisions activate and accentuate inter-group differences on issues like abortion. Instead

of change in one direction, Franklin and Kosaki (1989) find that *Roe v. Wade* (1973)[6] led to polarization between religious groups for discretionary, non-health related abortions. While some groups became more supportive of discretionary abortions, other groups like Catholics became less permissive of non-health related abortions. Although aggregate levels of support for abortion in national surveys appeared to be the same over time, the composition of the groups supporting or opposing abortion changed.

Johnson and Martin (1998) confirm inter-group polarization for the death penalty, but contend that the public response to Court cases is conditional. According to Johnson and Martin' *conditional response hypothesis,* the Court's ability to shape public opinion is limited to landmark cases in an issue area like *Roe* for abortion or *Furman v. Georgia* (1972)[7] for the death penalty. Subsequent cases, like *Webster* and *McClesky v. Kemp* (1987),[8] leave the Court unable to influence public opinion because people's attitudes are formed after the landmark case and resistant to change. Recent scholarship casts doubt on the empirical validity of the *conditional response hypothesis* due to leaving out political attributes central to attitude change like partisanship. When partisanship is included in modeling the effect of *Webster* on public opinion using the same data as Johnson and Martin (1998), Brickman and Peterson (2006) find that case did lead to polarization, as did *Planned Parenthood v. Danforth* (1976).[9] Johnson and Martin's (1998) approach also fails to develop a method to identify landmark cases or a theory about the conditions under which certain landmark cases change public opinion while others may not.

[6] 410 U.S. 113.
[7] 408 U.S. 238.
[8] 481 U.S. 279.
[9] 428 U.S. 52.

While the previous scholars analyze the effect of the Court on attitude change using cross-sectional national survey, others take advantage of panel studies. Brickman and Peterson (2006) use a panel design, but they rely on survey timing and a proxy for receiving the Court cases instead of directly measuring it. Recognizing that aggregate national data can overlook the regional impact of Court decisions, Hoekstra and Segal (1996) and Hoekstra (2000, 2003) use local panel surveys to capture the effect of several cases with regional interest on public opinion. These scholars conclude that the communities from which the cases originated had higher levels of awareness than national surveys, which revealed little or no nationwide exposure to the cases. The Court's ability to influence local public opinion appears greatest when the issues are not important to individuals (Hoekstra and Segal 1996), but the overall regional effect of cases on local public opinion is limited and small (Hoekstra 2003). When investigating Court driven attitude change, Hoekstra and Segal (1996) and Hoekstra (2003) limit the examination only to those aware of the cases.

Instead of using survey research, some scholars employ experimental designs and find that the Court influences attitude change.[10] Jeffrey Mondak and others reach the opposite conclusion of Bass and Thomas (1984) finding that the Court is able to increase support for various policy positions (Mondak 1990, Mondak 1991, Hoekstra 1995, Mondak and Smithey 1997). The Court's impact on evaluations of affirmative action and death penalty policies vary by race (Clawson and Waltenberg 2003) and individuals' values (Clawson, Kegler, and Waltenberg 2001). Although the experimental approach is

[10] The experimental literature often focuses on determinants of support for the Court rather than its ability to influence public opinion, which is the specific issue at hand in the project (e.g. Clawson and Waltenberg 2003, Mondak 1990, Mondak 1992, Gibson, Calderia and Spence 2002, Grosskopf and Mondak 1998).

criticized by some for creating artificial situations that do not reflect real world conditions (e.g. Hoekstra 2003), these works demonstrate that under certain conditions, the Court can influence public opinion.[11]

REVISITING THE COURT'S INFLUENCE ON PUBLIC OPINION: THE ROLE OF RECEIVING OF CASES AND ELITE DRIVEN ATTITUDE CHANGE

It is necessary to revisit whether the Supreme Court is driving public opinion for at least two related reasons. First, it is important to update this research area to include a fuller understanding of the dynamics affecting attitude change. Second, given these dynamics of attitude change, most of the existing research uses a flawed method of attributing attitude change to the Court.

Early work on whether the Court influences public opinion often did not include attention to the findings of social-psychology on the dynamics of attitude change. Some scholars simply relied on survey timing to attribute attitude change to the course. They divide public opinion on an issue into two categories—pre-decision and post-decision attitudes. If aggregate attitudes on the issue of the case appear unchanged in post-decision surveys, then the Court did not influence public opinion (e.g. Barnum 1985, Marshall 1988, Marshall 1989, Rosenberg 1991). This lacks an individual-level psychological explanation for Court-driven attitude change. These scholars also do not specifically

[11] I feel that this criticism is often overly dramatized. Scholars consistently recognize the importance of laboratory experiments in generating hypotheses. Properly implemented experimental designs can be used in conjunction with traditional survey research to provide more traction on the issue from alternative methods. Generalizability can be a problem because the experimental subjects tend to be unrepresentative samples of college students, but this should not outweigh the usefulness of using these approaches like causal estimation because appropriate survey data for this research question is rare.

identify who is receiving the new information provided by the Court or the factors that influence attitude change outside of possibly receiving the justices' message.

Much of the recent research on Court-driven attitude change borrows from social-psychology and grows out of the *Elaboration Likelihood Model* or ELM (e.g. Hoekstra and Segal 1996, Johnson and Martin 1998, Hoekstra 2003). According to the ELM, attitude change results from receiving new information and several individual-level characteristics. The probability of receiving new information is affected by an individual's interest in the topic. The more interested a person is in an issue, the more motivated he/she will be in seeking new information. Attitude change, however, does not automatically occur upon receiving new information. Instead, persuasion depends on whether the new information is consistent with an individual's existing beliefs, how much one thinks about the topic, and other factors like source credibility. Individuals are resistant to the new information if it is opposed to their pre-existing positions. Also, the more one is concerned about an issue and thinks about it, resistance increases as it is easier to generate counter-arguments against the new information, which further cements one's pre-existing beliefs (Petty and Cacioppo 1986, Fiske and Taylor 1991). From this perspective, those who are most likely to receive Court decisions are also the least likely to change their mind.

While the ELM provides many useful insights for understanding the dynamics of Court-driven attitude change, the application of it by public law scholars raises some questions. Previous research relying on the ELM discusses the effect of new information on attitude change (e.g. Hoekstra and Segal 1996, Johnson and Martin 1998, Hoekstra 2003), but 'new information' is generally limited to Court decisions. This overlooks the

important fact that Court decisions do not occur in a vacuum; Court decisions are situated within a boarder information environment that includes cues from other elites that may influence attitude change (e.g. Zaller 1992). Previous scholars often pay little attention to these non-Court cues and the broader information environment (e.g. Franklin and Kosaki 1989, Hoekstra and Segal 1996, Johnson and Martin 1998, Hoekstra 2003). My approach builds on these works by recognizing that the public receives cues from two important sets of elites—the Court and other political actors—that, as discussed below, has important consequences for attitude change.

Much of the previous research on Court-driven attitude change also relies on two flawed methods of determining who is receiving the new information provided by the Court, survey timing and self-reported exposure to cases. The first method tests whether the Court influenced pubic opinion using time as a critical variable. This approach is problematic because it does not isolate the effect of the Court from other factors that shape public opinion (e.g. Wlezien and Goggin 1993). It also assumes that the public as a whole will respond to Court decisions by exhibiting signs of attitude change rather than those aware of the cases. As demonstrated by Franklin and Kosaki (1989), this approach overlooks how aggregate-level stability can obscure changes occurring at the individual level.

A second method attributes attitude change to the Court using self-reported exposure to cases. Using self-reported exposure solves some of the problems of focusing only on case and survey timing to explain the effect of Court decisions on public opinion. This approach tests whether pre-decision attitudes on an issue change after the decision among those who have heard of the case. Some scholars compare different pre- and post-

decision samples to investigate if the Court is shaping attitudes on the issues associated with the cases (e.g. Franklin and Koskai 1989, Johnson and Martin 1998, Brickman and Peterson 2006).[12] However, this approach is problematic because it overlooks the critical conceptual and empirical distinctions between receiving new information and understanding it (e.g. Zaller 1992, Price and Zaller 1993).

Instead of relying on the ELM, this project extends Zaller's (1992) reception-accept-sample model to Court driven attitude change. Reception of new information is a two-step process. First, individuals are exposed to new information, and second, they must understand it (Zaller 1992, 42). Yet, much of the existing work on this subject measures the first component of reception, self-reported exposure to the case, while overlooking the second, comprehending the new information provided by the Court. For example, Franklin and Kosaki (1989), Johnson and Martin (1998) and part of Brickman and Peterson's (2006)[13] investigations of inter-group polarization following Court cases only compare those that have heard of the decision. This design overlooks whether those reporting exposure ever really had the second characteristic of reception, understanding the Court's message (comprehension). Considering these two elements permits identification of the individuals who actually received the Court's cues as opposed to assuming it. A major reason for the mixed findings in this research area could result from these flawed methods of attributing attitude change to the Court.

[12] Even though Franklin and Kosaki (1989) and Brickman and Peterson (2006) do not rely on the ELM, they use self-reported exposure to attribute attitude change to the Court. Due to this, their measure of case awareness suffers from the same problems noted here.

[13] Brickman and Peterson (2006) also use a panel survey to investigate the effect of *Danforth* on abortion attitudes, but rely only survey timing and a proxy for reception, political sophistication, to attribute attitude change to the Court. Consequently, they do not measure whether an individual actually received the Court case. This prevents a direct comparison of those who received the case to those missing the Court's message.

Assuming reception of the Court's message from self-reported exposure is problematic for at least two reasons. First, self-reported measures of exposure are subject to over reporting (Zaller and Price 1993, Prior 2005).[14] Consequently, some of those reporting exposure would include those that never really heard of the case. Second, remembering a case or political event is not the same as understanding it. Conflating exposure with comprehension runs the risk of equating those who remember the case and understand it with those that get the case wrong. Without understanding the cases, it does not make sense the people could integrate the new information in their belief system and exhibit attitude change.

To remedy these problems, I measure reception of case specific information and subsequent attitude change in a manner consistent with Zaller's (1992) and Price and Zaller's (1993) two-prong definition.[15] Individuals receive the elite cue provided by the Court only when they are exposed to the decision and demonstrate that they understand it. This avoids the problems of assuming comprehension of the case from self-reported exposure while reducing the issues associated with over reporting. Although Hoekstra (2003) and Hoekstra and Segal (1996) use a similar method to asses whether individuals are aware of Court decisions, their analysis of Court driven attitude change is restricted only to individuals who heard of the decision.

[14] Because the surveys used for post-decision samples are generally conducted near the decisions announcement, this makes potential over-reporting more likely. The possibility of over reporting is greatest immediately after the event takes place (Prior 2005).

[15] For much of his analysis, Zaller (1992) also assumes comprehension of new information from a proxy for exposure, one's general level of political awareness, because of the vast number of elite cues possible in his study. Since I am primarily interested in the effect of receiving the elite cue provided by the justices, measuring reception of particular elite cues by tracking both self-reported exposure and comprehension of the message is a much more manageable task. This is similar to the approach of Price and Zaller (1993).

The shift to reception as measured by comprehension of the decision is an improvement over previous methods of isolating the effect of cases on public opinion. If the Court is one of the political elites capable of driving public opinion, then its influence should be evident among those who receive its message. If the Court is educating and persuading the public, individuals who receive the elite cue provided by the justices should move toward the Court's articulated position. This leads to the *comprehension hypothesis*.

> *The Comprehension Hypothesis:* Individuals who receive the Court's message should change their attitudes in the same direction as the justices' cue.

If those receiving Court cases do not respond differently than those missing the elite cue by the Court, then any attitude change on the issues associated with the decision are not related to the justices. This is similar to the *positive response hypothesis* associated with Dahl (1957), but there are several important differences. Unlike the scholars initially investigating Dahl's theory, the analysis performed in Chapters 4 and 5 is sensitive to other possible effects of receiving Court cases including stimulating a backlash against the justices' articulated position. This approach also recognizes that the public as a whole should not exhibit attitude change after a Court decision, but that the Court effect should be present among individuals exposed to and understanding the case.

We also know that the public's response to new information is contingent on the character of the information flow from elites to the public (e.g. Zaller 1992, Brickman and Peterson 2006). One-sided information flows are typified by elite agreement leading to a mainstreaming effect where the public moves towards the elite consensus. Two-sided

information flows, on the other hand, present the public with elite disagreement, which leads to polarization according to one's predispositions. This is applicable to the Court because it can present either a one-sided or two-sided information flow to the public through unanimous or divided opinions. When the Court is unanimous, it presents a one-sided information flow that should be received by those understanding the cases. Non-unanimous decisions like the ones in this study, however, present the public with a two-sided information flow setting the stage for polarization among those receiving the Court's message. This leads to the *comprehension-polarization hypothesis.*

> *The Comprehension-Polarization Hypothesis*: Those who receive the Court's message in divided cases should be more likely to polarize than those who do not receive the message.

While in line with the *structural response hypothesis* posited by others (e.g. Franklin and Kosaki 1989, Johnson and Martin 1998), this is a micro-level model allowing me to draw conclusions about individuals instead of groups. It also takes advantage of directly measuring reception of the Court's message through comprehension of cases rather than assuming it based on self-reported exposure.

Another way the Court may influence public opinion, consistent with Dahl's (1957) work, is that it should be able to use its institutional legitimacy to validate one side of the policy debate. Credible sources should be more persuasive than non-credible ones (e.g. Fiske and Taylor 1991 and see generally Pornpitakpan 2004). This suggests that people should become more supportive of the position the Court adopts because of its special place in society as neutral arbiter of the law. While some experimental designs support this hypothesis (Clawson and Waltenberg 2003, Hoekstra 1995, Mondak 1994,

1992, 1990), survey research has generally not confirmed it (Marshall 1988, Marshall1989, Marshall 2004, Franklin and Kosaki 1989, Johnson and Martin 1998). Although previous findings are mixed, I contend that the Court should be able to increase support for its articulated position among those receiving its message who respect the institution, which leads to the *comprehension-affinity for the Court hypothesis*.[16]

> *The Comprehension-Affinity for the Court Hypothesis:* Those who hold the Court in high regard and receive the elite cue provided by the justices should be more likely to adopt the Court's articulated position than those with little respect for it or not receiving the message.

Supreme Court cases do not occur in a political vacuum. The Court's message is part of a broader elite debate that provides the public with important cues that can influence attitude change. The justices can stimulate non-Court elites by raising the place of an issue on the agenda (Gates 1999) and causing immediate, dramatic, and lasting changes in media coverage (Flemming, Bohte, and Wood 1997). If public opinion is influenced by elites in general, then scholars should incorporate the effect of both sets of elites—the justices and other political elites—into investigations of the Court's ability to shape mass attitudes. The nature of the information environment and its influence on attitude change is largely overlooked by previous public law research except for Brickman and Peterson (2006). Examining the effect of both sets of elite cues is important because the positions of non-Court elites may reinforce or undermine the

[16] There is debate over whether feeling thermometers appropriately measure support for the Court (see Calderia, Spence and Gibson 2003, Grosskopf and Mondak 1998). For example, a feeling thermometer does not differentiate between diffuse and specific support for the institution. For these reasons, I use the term affinity for the Court rather than support for it. However, the nature of the relationship between

message sent by the justices, which leads to the *comprehension-elite alignment hypothesis.*

> *The Comprehension-Elite Alignment Hypothesis:* The effect of receiving cases is conditionally related to the elite alignment on the issue associated with the decision.

The conditional effect of receiving Supreme Court cases and consuming the broader elite debate varies along two dimensions—first, the level of agreement between the Court and other political elites; and second, the relationship between receiving elite cues and attitude change. Although specifying the conditional nature of the relationship among the Court's cues in *Webster*, *Stanford*, *Van Orden* and *McCreary* and those provided by other political elites is the task of Chapter 3, it is useful to discuss the range of theoretical possibilities.

The level of agreement between the Court and other political elites is important because Supreme Court cases are part of a much larger elite debate that can influence public opinion. If the broader elite debate is one-sided favoring one policy position over another, the Court's message will either be consistent with the broader elite consensus or inconsistent with it. Alternatively, if the broader elite debate is two-sided, justices' cue is incorporated into the set of evenly divided elite cues that the public receives. The effect of the broader elite debate should also be related to the functional form of the relationship between consumption of elite cues and attitude change, which may be linear (Gilens 2001) or non-linear (Zaller 1992).

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affinity and support for the Court should be the same. An individual that holds the Court in high esteem should be more likely to treat its decisions as legitimate ones.

One possibility is that the relationship between receiving new information by consuming elite cues and attitude change is linear (Gilens 2001). Several expectations flow from such a linear relationship, which are illustrated in Figure 2.1.

If the broader elite debate is one-sided and agrees with the position adopted by the Court, the effect of receiving of a Court case increases with the additional consumption of the pro-Court elite debate. On the other hand, the broader elite debate may be one-sided and disagree with the Court decision. Increased consumption of an anti-Court broader elite debate should reduce the effect of receiving the case. Last, the broader elite debate can be two-sided that is relatively evenly divided between supporting and opposing the Court's policy. Under this scenario, I again expect that the effect of receiving Court case is reduced by consuming the broader elite debate, but not as much as the one-sided anti-Court elite alignment. As an individual consumes more of the two-sided elite debate, he/she is receiving an increased amount of countervailing messages, which should reduce the effect of the Court decision on one's probability of attitude change. The presence of pro-Court messages should attenuate the effect of the anti-Court elite cues.

It is also possible that the relationship between receiving new information and attitude change is non-linear. Zaller (1992) contends that this results from the combination of the probability of receiving new information from elites and accepting it. Individuals with low levels of political information are unlikely to receive the elite debate as they are unaware of the elite cues. Consequently, those with low political awareness will not exhibit signs of attitude change because they are missing the new cues provided

by elites. Individuals at the other end of the spectrum with high levels of political information consume the most amounts of the broader elite debate, but are also highly resistant to attitude change. Instead, the effect of elite cues on attitude change is greatest among those with moderate amounts of information as they consume the broader elite debate and are open to persuasion.

Like Zaller, I contend that individuals with low levels of political information consume little of the broader elite debate. However, unlike Zaller, I do not assume that less sophisticated individuals are unaware of particular elite cues, which in this project are Court cases. If an individual consuming little or none of the broader elite debate actually receives the cue provided by the Court, then he/she should be relatively open to persuasion by the Court regardless of whether other political elites accept or reject the justices' position. After all, this individual is receiving the message delivered by the Court and probably few other elite cues. The lack of countervailing messages should heighten the effect of receiving the Court's message. Similar to Zaller, individuals consuming moderate amounts elite cues are receiving both the Court's message and the broader elite debate, and are open to attitude change. Here, whether the broader elite debate is one-sided or two-sided should influence how an individual responds to the case as he/she is receiving both sets of elite cues. Individuals with high political awareness scale should be the most likely to receive elite cues including the Court's message, but they should be the most resistant to change regardless of the cue's source.

The conditional nature of these factors is illustrated in Figure 2.2 by the same three scenarios as above: a one-sided pro-Court broader elite debate, a one-sided anti-Court broader elite debate, and a two-sided elite debate.

In the first scenario, the broader elite debate agrees with and reinforces the message sent by the Court. As consumption of the broader elite debate goes from low to moderate, the effect of receiving the Court's message should be amplified by the pro-Court elite cues that are missed by those with less political awareness. As consumption of the pro-Curt elite debate climbs to higher levels, the effect of receiving Court cases should diminish as those with more political awareness are resistant to change. In the second scenario, the effect of receiving Court cases is relatively stable for those consuming little of the broader elite debate, but begins to diminish as one consumes more of the anti-Court debate. The effect of the Court decision will continue to diminish as consumption of the elite debate reaches the highest levels because those with the most awareness are also resistant to attitude change. In the third scenario with a two-sided elite broader elite debate, the effect of receiving Court cases on those consuming moderate amounts of the elite debate compared to those consuming little of it should be in-between the previous two scenarios. This results from the broader elite debate possessing elements that support and oppose the decision. Again, the effect of receiving the Court cases should decrease as one moves from moderate to high consumption of the broader, two-sided elite debate.

Taken together, the combination of these two dimensions leads to a more nuanced understanding of how individuals receive the cues provided by the Court and other political elites. Situating the Court decision within this political context should shed light on whether receiving the Court or other political elites are driving public opinion, or if as suggested above, there is a joint effect between these two sources of elite cues on attitude change. Testing the linear and non-linear relationships for the effects of receiving the

Court's cue and those of other elites will require different modeling strategies, which are discussed in later chapters.

RECEIVING COURT CASES AND THE BROADER ELITE DEBATE: INFORMATION DELIVERED THROUGH INTERMEDIARIES

So far, I have discussed the effect of receiving Court cases on public opinion and the important role of other elites in this process. Any investigation like this project must attend to how the public learns about cases and the broader elite alignment. Few individuals have direct exposure to the Court or other political elites. Instead, the public learns about the Court's activity and broader elite debate from intermediaries, which are primarily the media.

Unlike other political actors, the Supreme Court is almost completely restricted to using the media as a vehicle for informing any appreciable portion of the public of its message. Supreme Court justices do not have campaign commercials, visit constituents or make policy speeches. Acting as an agenda setter, the Court can focus the media and other elites on the issues at stake in the cases (Flemming, Bohte and Wood 1997). By reporting the cases, the media link the public to the policies established by the Court. This process starts before the Court makes its decision. The media will preview salient cases, analyze the effect of the decision on the legal and political systems, and forecast future implications of the case.

Although media coverage of the Court tends to be non-biased (Larson 1989, Larson 1995, Slotnick and Segal 1999), it also tends to be poor (Davis 1994, Haltom 1999). For example, television news can get important aspects of the case wrong

(Slotnick and Segal 1999) and the quality of reporting varies among news sources as journalists focus on the future political implications of the case rather than explaining justices' positions (Hoekstra 2003). Media coverage of the Court and its decisions is far from ideal, but it is capable of connecting the public to some of its activities.

Along with the message sent by the justices, the media present the public with the broader elite alignment on issues associated with Court cases. The nature of the broader elite debate has consequences for attitude change. The public's perception of the broader elite debate is shaped by the choices made by the media (Iyengar and Kinder 1987). This includes whether the public receives a one- or two-sided information flow from elites. The nature of this debate should be integrated into studies of the Court's ability to shape public opinion. Otherwise, an important aspect in the dynamics of attitude change is left out of the analysis: the effect of non-Court elites on public opinion. As discussed earlier, individuals may respond different to the cues provided by political elites and the amount of the elite debate consumed may increase or decrease the probability of attitude change. Hoekstra (2003) takes the important step of investigating whether the media reports cases, but does not account for the nature of the information flow from both sets of elites to the public—that is, whether the Court decision is reinforced or undermined by other political elites. By assessing the information flow from the Court and other elites to the public, my approach fits the Court's message within political context and is more nuanced than previous research designs.

I now turn to the data and methods that comprise the empirical investigation into the efficacy of reception as a measure of the Court's influence on public opinion.

DATA

The empirical analysis for this project is conducted in three stages—(1) detailing reception of the elite cues provided by the Court and other political elites, (2) the effect of receiving *Webster* and *Stanford* on abortion and death penalty attitudes, and (3) the effect receiving *Van Orden* and *McCreary* on attitudes toward publicly displaying the Ten Commandments. The analysis in Chapters Three through Five rely on data from three sources: news reports on the cases, the 1989 National Election Studies Pilot Study (here after "the 1989 Pilot"), and an original quasi-experiment conducted in Austin, Texas during summer 2005 (here after "the 2005 Experiment").

Media Reporting on the Cases

The data used to assess the broader elite alignment on *Webster, Stanford, Van Orden* and *McCreary* include news reports on these cases in the year before they were decided. The two primary data sources are *Lexis-Nexis Academic Universe* and *Vanderbilt Television News Archive.* For *Webster* and *Stanford*, the data include all news stories and editorials by the *New York Times* and ABC News about the cases from July 1, 1988 to July 31, 1989 in the *Lexis-Nexis Academic Universe*. For NBC News and CBS News, I relied on data provided by the *Vanderbilt Television News Archive* because the transcripts for these broadcasts were not available on *Lexis-Nexis*.[17] The relevant news stories were selected using the following search terms in the full-text of media reports. For *Webster,* the search terms were "*Webster*" and "abortion"; for *Stanford*, the search terms were "death penalty" and "*Stanford*" or "*Wilkins*". This reflects the consolidation

[17] The *Vanderbilt Television News Archive* provides summaries of news stories instead of transcripts. This choice has consequences because the summaries are not as detailed as transcripts. However, the summaries

of the two death penalty cases and the possibility of reports mentioning one case without the other.

For *Van Orden* and *McCreary,* the data are provided solely by *Lexis-Nexis.* The search period was June 27, 2004 to June 28, 2005, which encompasses the year before the decisions were announced. Since I collected original data by conducting a quasi-experiment in Austin, Texas, I included a local newspaper, *The Austin American Statesman.* I did not collect data from local television news broadcasts.[18]

The 1989 Pilot

Measuring the Court's influence on public opinion poses problems for scholars because researchers generally do not include the Supreme Court on surveys; these problems are well documented by others (e.g. Caldeira 1991, Hoekstra 2003). Most surveys are designed to investigate research questions about campaigns, elections and representation. The relatively few surveys that include the Court are generally not well suited to investigating attitude change because they present a snapshot of public opinion at a given time. Those that are panel studies tend not to include Court cases or are not timed to capture the impact of a particular decision. This renders much of the existing survey data inappropriate for studying the Court's impact on public opinion. Some suitable existing data does exist and I take advantage of one such data set in this dissertation, the 1989 Pilot.

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did include the names and organizations of elites presented in the stories. This should be sufficient to assess the nature of the broader elite alignment for *Webster* and *Stanford.*

[18] The searches were performed using the full text option and the search term was "Ten Commandments". The analysis includes only the reports referencing at least one of the decisions. The data include news reports and editorials.

There are many advantages of the 1989 Pilot for studying Court-driven attitude change. First, it is a panel study. Panel studies are well suited for studying changes in public opinion because researchers can track attitudes of the same individuals over time. Second, the survey is conveniently timed well to capture the effect of *Webster* and *Stanford* on public opinion as a portion of the study was conducted just after the decisions were announced. Third, the survey includes items measuring reception of *Webster* and *Stanford*. Fourth, it is drawn from a nationally representative sample of adults. Last, the 1989 Pilot, like other NES surveys, contains a host of relevant political attributes and demographic characteristics that are relevant to receiving cases and attitude change. These qualities make the 1989 Pilot a valuable resource for analyzing reception rates for *Webster* and *Stanford* (Chapter 3) as well as whether receiving the cases influences abortion and death penalty attitudes (Chapter 4).

The 1989 Pilot is a four-wave panel study. The first and second waves are the pre- and post-election 1988 NES survey, which provides the respondents' pre-*Webster* abortion positions, pre-*Stanford* death penalty positions, political attributes, and demographic characteristics. The third wave is a sub-sample of individuals completing the 1988 NES panel survey and was conducted immediately after *Webster* and *Stanford* from July 6 to August 1, 1989. *Stanford* was decided on June 26, 1989 and *Webster* was decided on July 6, 1989. The most important items in the third wave measure respondent abortion and death penalty positions as well as separate items for receiving the Court's elite cues in *Webster* and *Stanford.* During the fourth wave, respondents from the third wave were re-interviewed between September 6 and October 6, 1989. The respondents

were again asked for their abortion positions and whether they understood *Webster*. The fourth wave does not measure whether individuals received *Stanford*.

The four-waves of the 1989 NES Pilot permit estimation of any short- and long-term Court effect on abortion attitudes. Short-term change refers to the difference between an individual's pre-*Webster* abortion position in the 1988 NES survey and his/her first post-*Webster* abortion position in July 1989. Long-term change refers to the difference between an individual's pre-*Webster* abortion position and his/her second post-*Webster* abortion position in Wave 4 from September to October 1989. Comparing the effect of short- and long-term reception on short- and long-term attitude change permits analysis of the durability of Court-driven attitude change. Please note that comprehension of *Webster* and *Stanford* are measured separately in the third wave of the panel study. Since the 1989 NES Pilot does not include a long-term measure of understanding the case, I can only estimate short-term effects of receiving *Stanford* on death penalty attitudes.

The 2005 Experiment

While the 1989 Pilot illustrates that quality data to investigate Court-drive public opinion exists, such data sets are rare. In order to estimate the effect of receiving *Van Orden* and *McCreary* on attitude change, I decided to conduct my own quasi-experiment that gave me control over several problematic aspects of using existing data: survey timing, questionnaire content, and a design conducive to examining individual-level attitude change.

Similar to the 1989 Pilot, the data collected in 2005 is a two-wave panel study designed to book end the cases. The pre-decision surveys were conducted between June

17 and June 23, 2005. The Court announced *Van Orden* and *McCreary* on June 27, 2005. The post-decision surveys were administered after the cases were announced between June 28 and June 30, 2005. The proximity of the surveys to the Court cases should reduce contamination from other events. The pre-decision survey portion of 2005 Experiment provides similar personal characteristics as the pre-decision 1989 Pilot. The post-decision survey includes items to measure reception of *Van Orden* and *McCreary*. Similar items are rarely included on surveys.

Experimental designs generally offer a high degree of internal validity and have some problems with external validity (Johnson and Joslyn 1995). The quasi-experimental design employed in this study takes advantage of some of the internal validity of experiments while providing a degree of external validity. Unlike a traditional experiment, I did not randomly assign the treatment, reception of *Van Orden* and *McCreary*, which does pose certain problems like loss of control over the treatment condition. Instead, I opted to measure attitudes on publicly displaying the Ten Commandments before and after the decisions. The internal validity comes from controlling the survey timing and content, but this is reduced by not randomly assigning the treatment. Instead, to gain external validity, I measured reception of the cases under as normal conditions as possible at the expense of control over treatment conditions. This was an effort to replicate real world conditions of learning about the decisions, as I did not artificially expose the subjects to the Court's message. These steps reduce rather than eliminate the internal and external validity concerns of this research design.[19]

[19] This approach, of course, creates some problems like generalizing from a college student sample. I feel that the trade off between internal and external validity is acceptable because of the data problems associated with this research question.

The sample is drawn from college students in Austin, Texas attending the University of Texas at Austin and a large urban community college, which should increase sample diversity. The sample consists of 132 students drawn from four *Introduction to American Politics* classes and one non-public law upper division course. Three of the *Introduction to American Politics* classes were drawn from the large urban community college and the remaining classes came from the University of Texas at Austin. Eighty-three percent of the sample attended the University of Texas at Austin and 17% were students at the large urban community college. The classes had not reached constitutional law, the US Supreme Court, or the judiciary more broadly, and had not discussed the cases at the time of the experiment. As one might expect, the sample is younger and has more Democrats than national samples. The sample is balanced with respect to gender and has some racial as well as religious diversity. Summary statistics for the sample are included in the Appendix.

Combining existing and original data helps gain traction on whether the Court can influence public opinion. This also helps me get around some of the survey timing and item problems associated with using existing data. Using two different research designs, a panel study and a quasi-experiment, add to this analysis by taking advantage of two approaches.

Chapter 3 begins the empirical investigation into whether the Court is driving attitudes on abortion, the death penalty, or publicly displaying the Ten Commandments. This chapter focuses on the cues provided by the Court and other elites as well as reception of these messages.

Chapter 3: The Cues Sent by the Court and Other Political Elites, and the Individuals Receiving the Messages

The previous chapter established the theoretical framework for studying Court driven attitude change. This chapter begins the empirical investigation into whether and how the Court is influencing public opinion by exploring reception of cases. In order for the Court to influence public opinion, people must be aware of the elite cues it provides. As discussed in Chapter 2, it is also necessary to place the Court in political context by accounting for another set of cues that can influence public opinion: the cues sent by other political elites about the cases and issues associated with the decisions. The central question this chapter is: what cues do the Court and other political elites send to the public, and who receives these cues?

While previous scholars have investigated whether the Court is driving attitude change and how public opinion can shape judicial decision-making, there has been less research on measuring case awareness. This is surprising given the scholarly consensus that awareness of cases is a requirement for the Court to influence public opinion. To understand the key variable of case awareness, I continue to combine the theoretical perspectives and methodological approaches developed by researchers in public law and American politics more generally.

This chapter proceeds in four sections. First, I establish the elite cues sent by the Court in *Webster, Stanford, Van Orden* and *McCreary* to a potentially persuadable public. Second, I detail the nature of the broader elite alignment on the cases and issues associated with them as it may influence attitude change. This entails original content

analysis of media reports for the presentation of elite cues to the public. Third, I develop reception as an improved method of establishing awareness of Court decisions compared to those commonly employed by public law scholars. By reception, I mean individuals being exposed to Court cases and understanding the information presented by the justices. Reception improves on previous methods of assessing case awareness such as media consumption, self-reported exposure to the case, or the combination of case and survey timing. Last, I investigate the individual-level characteristics that increase the probability of receiving Court cases and discuss the results.

THE ELITE CUES SENT BY THE COURT

Webster v. Reproductive Health Services

At the center of *Webster* is a Missouri law and its sections regulating abortion. Many scholars viewed this case as the first real chance to overturn *Roe* because of changes to the Court's composition making it more hostile to the abortion precedent (e.g. Epstein and Kobylka 1992, Graber 1996). The controversy around the case generated a then record number of amicus briefs demonstrating the importance of the case to interest groups and activists (Tribe 1990).

The Missouri statute contained several sections regulating abortion that pro-choice activists asserted violated a woman's constitutional right to an abortion while pro-life activists viewed the same provisions favorably. First, the preamble of the Missouri law declared that life begins at conception. Second, the law prevents public facilities and employees from performing abortions unless the procedure was needed to save the mother's life. Third, public funding and employees could not be used to encourage

women to seek abortions. Fourth, fetal viability tests would be performed starting in the 20th week of a pregnancy.

In *Webster*, a divided Court refuses to overrule *Roe* while at the same time upholding Missouri's increased state-level regulation of abortion. The nature of *Webster* poses some problems for categorizing the elite cue provided by the Court to the public. The case does not neatly fit into the categories of liberal or conservative because it stakes out a middle ground (Gates 1999). It was a disappointment to those wanting to overrule *Roe* like Justice Scalia and reaffirm it like Justice Blackmun (Greenhouse 2005, Tushnet 2006). The alignment of the justices adds to the difficult nature of *Webster* as no single position garnered a majority. However, by approving Missouri's restrictions on abortion, the Court sent the public an elite cue that abortion should be permitted in fewer circumstances. Individuals who receive *Webster* should understand the decision allowed for increased regulation of abortion.

Stanford v. Kentucky

The central question in *Stanford* was whether imposing the death penalty on convicted murderers who were 16 or 17 years old when they committed the crime violates the Eight Amendment's prohibition against cruel and unusual punishment. By a 5-4 margin, the Court ruled that executing convicted murderers who were minors when the crime was committed did not necessarily violate the evolving standards of American society. Writing for the majority, Justice Scalia reached this conclusion based on the number of death penalty states permitting capital punishment of 16 or 17 year old offenders and the lack of a national law banning executions of offenders under 18 years

old for all federal crimes. He also rejected polling data as a method of establishing a national consensus against the death penalty as applied in this case.

Similar to *Webster,* the decision resulted in a divided Court, but figuring out the elite cue provided by the Court in *Stanford* is less complicated. The easily identifiable split between the majority and dissenting opinions sends a clearer signal to the public than the plurality decision in *Webster*. By ruling that evolving standards of American society have not reached a consensus against imposing the death penalty on convicted murders 16 years old or older, the Court signals the public that the capital punishment is acceptable. This presents the public with an elite cue that the death penalty is acceptable in general and for this particular situation. Individuals receiving the Court's message should be aware of the pro-capital punishment orientation of the decision.

Van Orden v. Perry and *McCreary v. ACLU*

Van Orden and *McCreary* both involve the constitutionality of publicly displaying the Ten Commandments. The Court heard oral arguments and decided the cases on the same days. Like *Webster* and *Stanford, Van Orden* and *McCreary* satisfy Epstein & Segal's (2000) test of case salience by appearing on the front page of *The New York Times*. Also like *Webster* and *Stanford,* multiple justices wrote opinions in both cases including published dissents. However, the fact patterns, case origins, and outcomes are different for *Van Orden* and *McCreary*.

Van Orden originates from Austin, Texas where the Fraternal Order of Eagles donated a monument of the Ten Commandments placed on the State Capitol's grounds. This display appears with other historical monuments and had been on the grounds for 40 years. In the opinion by Chief Justice William Rehnquist, the Court ruled that the display

did not violate the First Amendment because the context of the statue had sufficient historical meaning in addition to its religious content.

At issue in *McCreary* was the public display of the Ten Commandments in some Kentucky courthouses. Unlike *Van Orden,* the Court struck down the Kentucky displays. Justice Souter discussed the history and context of the display in the majority opinion. A framed copy of the Ten Commandments was originally the only document in the display. Next, the county added other religious passages and a third round of alterations included secular documents to illustrate the foundations of Kentucky law. Although other documents appeared in the display, Justice Souter concluded that the history of the display indicates the purpose was to advance religion. Consequently, the display violated the First Amendment.

The different outcomes of the cases lead to two sets of elite cues. For *Van Orden*, the Court signals the public that certain Ten Commandments displays are acceptable while in *McCreary,* the Court indicates that other displays are not constitutional. Reception of these cases is measured separately to reflect the divergent outcomes. Individuals receiving each case should be able to correctly identify whether the particular display was approved or not. Awareness of each case does not hinge on receiving the justices' message in the other.

In *Webster, Stanford, Van Orden,* and *McCreary*, the Court provides powerful elite cues to a potentially persuadable public that is capable of revising its attitudes. However, the elite cues sent by the justices are not the only ones the public receives. Court decisions are delivered to the public by the media along with the positions of other

political elites. The content and nature of the broader elite debates surrounding these cases are the focus of the next section.

ASSESSING THE BROADER ELITE DEBATE

The elite debates surrounding Court cases, which the media presents to the public, receive little attention from public law scholars investigating Court-driven attitude change. For example, researchers who focus on whether Court decisions influence the structure of public opinion compare pre-decision samples with post-decision samples of individuals who report being exposed to the cases, but do not address the broader elite debate (e.g. Franklin and Kosaki 1989, Johnson and Martin 1998, Brickman and Peterson 2006). This approach leaves out two important aspects of this project, whether individuals reporting exposure actually understood the Court's message and the role that other political elites play in attitude change. Other scholars take the important step of investigating whether the media reports cases (e.g. Hoekstra and Segal 1996, Hoekstra 2000, Hoekstra 2003), but again do not account for the nature of the information flow from elites to the public. By assessing this information flow, my approach fits the Court's message within political context and is more nuanced than previous attempts to explain how the public responds to decisions.

In order to assess the broader elite alignment surrounding *Webster, Stanford, Van Orden*, and *McCreary*, I content analyze media reports related to the cases. The unit of analysis is the news story. The two primary data sources are *Lexis-Nexis Academic*

Universe and *Vanderbilt Television News Archive.* For *Webster* and *Stanford*,[20] the data include all news stories and editorials by the *New York Times* and ABC News about the cases from July 1, 1988 to July 31, 1989 in the *Lexis-Nexis Academic Universe*. For NBC News and CBS News, I relied on data provided by the *Vanderbilt Television News Archive* because the transcripts for these broadcasts were not available on *Lexis-Nexis*.[21]

For *Van Orden* and *McCreary,* the data are provided solely by *Lexis-Nexis.* The search period was June 27, 2004 to June 28, 2005, which encompasses the year before the decisions were announced. Since I collected original data by conducting a quasi-experiment in Austin, Texas, I included a local newspaper, *The Austin American Statesman.* I did not collect data from local television news broadcasts.[22]

To assess the elite alignment surrounding *Webster, Stanford, Van Orden,* and *McCreary,* I code the data for the number of elites quoted on each side of the issues associated with the cases. For the purpose of this study, political elites include party leaders, elected officials, policymaking bodies like Congress or state legislatures, members of interest groups, or individuals presented as experts on the topic. If elites from one side of the debate, for example anti-death penalty interest groups leaders, are reported far more often than those with opposing views, then the message will be

[20] The search used the full text option and the terms for *Webster* were "Webster" and "abortion"; the search terms for *Stanford* were "death penalty" and "*Stanford"* or "*Wilkins*". This reflects the consolidation of *Stanford* and *Wilkins* as some stories may only reference the name of one case. The data include both news items and editorials.

[21] The *Vanderbilt Television News Archive* provides summaries of news stories instead of transcripts. This choice has consequences because the summaries are not as detailed as transcripts. However, the summaries did include the names and organizations of elites presented in the stories. This should be sufficient to assess the nature of the broader elite alignment for *Webster* and *Stanford.*

[22] The searches were performed using the full text option and the search term was "Ten Commandments". The analysis includes only the reports referencing at least one of the decisions. The data include news reports and editorials.

considered one-sided. However, I expect that the elite debate surrounding the cases will be two-sided. These issues are frequently trumpeted as controversial topics with energized activist elites on both sides. Also, the media has a norm of balance and non-biased reporting on the Court, suggesting that elites each side of debate will be quoted (Larson 1989, Larson 1995, Slotnick and Segal 1999). To determine whether the broader elite debate is one- or two-sided, I perform a difference of means test to establish whether more elites are quoted on one side of the issue rather than the other.

The results of the content analysis are presented in Table 3.1.

Table 3.1 indicates that the media covered each case, but paid more attention to some decisions than others. *Webster* and publicly displaying the Ten Commandments received more attention from national news organizations than *Stanford* did. In the year prior to *Webster*, 60 stories involved the case. Fifty-two of these stories appeared in the *New York Times* and national television news programs presented eight. Across print and television news organizations, the stories quoted an equal number of pro-choice and pro-life elites. On average, 5.1 elites were quoted on each side of the abortion issue, which indicates the media presented the public with a two-sided elite debate.

Stanford and the death penalty received less coverage than *Webster* and abortion. *Stanford* received roughly the same amount of coverage by the *New York Times* and the three major network news telecasts. Although the average number of anti-death penalty elites quoted in these stories eclipses the average number of pro-death penalty elites 3.6 to 4.0 per story, this difference is not statistically significant. Consequently, while the media coverage of *Stanford* and the death penalty may slightly favor anti-death penalty

elites, the broader elite debate presented to the public is two-sided and consistent with my expectations of balanced coverage.

From June 27, 2004 to June 28, 2005, 35 news stories included references to the Ten Commandments and the Court's activity in *Van Orden* or *McCreary*. In addition to the 13 *New York Times* stories, the local newspaper reported on the cases eight times. Whether in print or on television, these stories on average quoted elites on both sides of the Ten Commandments debate creating what appears to be a two-sided information flow. The average number of pro-display elites quoted in each story, however, exceeded the number of anti-display elites in each of the five sources. For the entire sample, an average story included 3.3 pro-display elites compared to 2.5 anti-display elites. This difference is statistically significant. Although anti-display elites are quoted in each news source, the overall nature of the elite discourse delivered to the public by the media slightly favors publicly displaying the Ten Commandments.

As discussed in Chapter 2, the nature of the broader elite debate has important consequences for the probability that an individual will exhibit attitude change on the issue associated with the case. The specific implications of the two-sided broader elite messages in *Webster* and *Stanford* as well as the more one-sided nature of the elite debate regarding the Ten Commandments displays on Court driven attitude change are discussed in Chapters 4 and 5.

The media presented the public with two-sided elite messages on each of the three issues. There are several options to measure consumption of the broader elite debate. One approach is to rely on self-reported media consumption, but this is subject to over reporting (e.g. Prior 2005). Instead, I will use one's general level of political information

as a proxy for consumption of the broader elite debate. As demonstrated by Price and Zaller (1993), political information is a better predictor of receiving media messages including the elite debate on the cases. This is also similar to the way that Zaller (1992) assesses consumption of elite cues. In the next section, I address the problems with previous measures of case awareness and discuss improved methods of identifying those who received the Court's message.

MEASURING AWARENESS OF COURT CASES BY RECEPTION

There are several methods to assess whether an individual is aware of Court decisions. Some scholars have used survey and case timing as a proxy for being aware of Court decisions (Barnum 1985, Marshall 1989, Brickman and Peterson 2006). Murphy and Tannenhaus (1968) relied on an individual's ability to name cases they like or dislike. Other scholars rely on self-reported exposure measured by individuals indicating they heard of recent decisions in certain issue areas (Franklin and Koskai 1989, Johnson and Martin 1998, Franklin and Kosaki 1995, Brickman and Peterson 2006, Scott and Saunders 2006) or knowing that a case has been decided (Franklin, Kosaki, and Kritzer 1993). These methods are problematic. Relying on survey and case timing assumes that individuals are aware of the cases rather than measuring it directly. Self-reported exposure creates two related problems—assuming that people understand the information provided by the Court and over reporting.

Measuring reception by comprehension of the decisions is an improved method of determining whether an individual is aware of the elite cue provided by the Court. Other scholars have used this approach (Price and Zaller 1993, Hoekstra and Segal 1996,

Hoekstra 2000, Hoekstra 2003). Scholars using reception first determine self-reported exposure to the case and next whether the individual understood the decision. Franklin, Kosaki, and Krtizer (1993) also discuss this method, but their attention to whether individuals in their sample understood several Court cases is cursory.[23] While these scholars assert the benefits of using specific knowledge about Court cases to measure awareness, this method is less common than other approaches.[24]

Given the "conventional wisdom" asserted by several prominent public law scholars of a public largely unaware of most Court cases (e.g. Segal and Spaeth 1993, Segal, Spaeth and Benesh 2006), one would expect that people are rarely familiar with decisions regardless of how it is measured. After all, the public routinely performs poorly on surveys when asked about the Court and has trouble identifying justices including the Chief Justice of the United States (e.g. Delli-Carpini and Keeter 1996, Baum 2007). A popular recent Zogby International poll illustrates this perspective in a way aimed more at entertainment than adding to our understanding of what influences case awareness—"77% of U.S. residents could name two of Snow White's dwarfs, whereas only 24% could name two Supreme Court justices" (United Press International 2006).

There is growing evidence, however, that the conventional wisdom underestimates the ability of the public to follow Court actions. Franklin and Kosaki (1991) find 85% of a sample drawn from St. Louis, Missouri remembered *Webster*.[25]

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[23] While Franklin, Kosaki and Krtizer (1993) examine the factors that systematically influence knowing the Court has decided a case, they do not investigate the same for understanding Court decisions. Instead, they note reception rates at the end of the paper.

[24] Hoekstra (2003) and Hoekstra and Segal (1996) do not compare those who receive cases to those missing the justices' cues when examining Court driven-attitude change, which is a key difference between their approach and the one I employ in Chapters 4 and 5.

[25] This figure is quoted from Franklin, Kosaki, and Krtizer (1993).

Other scholars also found that salient Court decisions have deeper penetration into the public's consciousness than the conventional wisdom allowed including up to 40% of national survey respondents reporting exposure to cases (e.g. Murphy and Tanenhaus 1968, Franklin, Kosaki and Kritzer 1993, Scott and Saunders 2006). Local reception rates for cases in the region from which they originated can range from 21% to 82% (e.g. Hoekstra and Segal 1996, Hoekstra 2000, Hoekstra 2003). While awareness of Court decisions is often less than other political events or actors (Franklin Kosaki and Krtizer 1993, Price and Zaller 1993), it is higher than the conventional wisdom allows.

This begs a question: since several scholars have established that the public is aware of certain cases, why is it necessary to revisit this research area? I contend that there are at least three reasons: the use of faulty measures of case awareness, improper conceptualization of who should be receiving elite cues including Court decisions, and mixed findings for the factors influencing case awareness.

First, some public law scholars rely on flawed measures of case awareness resulting in assuming reception rather than measuring it such as self-reported exposure (Franklin and Kosaki 1989, Johnson and Martin 1998, Brickman and Peterson 2006, Scott and Saunders 2006) or survey timing (Barnum 1985, Marshall 1988, Marshall 1989, Brickman and Peterson 2006). As noted earlier, this results in inflated estimates of case awareness. This prevents proper identification of individuals who actually received the elite cue provided by the Court. Measuring reception of cases by comprehension of the decision avoids these problems.

Second, public law scholars routinely point to media consumption and education as proxies for receiving elite messages like Court decisions (Franklin, Kosaki and Kritzer

1993, Franklin and Kosaki 1995, Hoekstra and Segal 1996, Hoekstra 2000, Hoekstra 2003). The media certainly play an important role in the public's awareness of cases because it is the only realistic way for individuals to learn about Court decisions. If the media do not report on a case, then the public will not be aware of it. However, political scientists outside of public law have demonstrated that self-reported media consumption and education do not capture exposure to and understanding of the messages presented by the media as well as one's general level of political information (e.g. Price and Zaller 1993, Delli-Carpini and Keeter 1996). By overlooking the role of political information in the dynamics of understanding the messages sent by the media, public law scholars are missing a large aspect of case awareness.

The third reason to return to assessing case awareness are the mixed findings for the individual-level factors influencing knowledge about Court decisions across the public law literature. Price and Zaller (1993) demonstrate that political information is a powerful determinant of receiving *Webster* and *Stanford*. Scott and Saunders (2006) also find that general political knowledge is related to self-reported exposure to a case about the Ten Commandments in 2005, but not exposure to three other cases that year.[26] Some scholars also find news consumption to increase awareness of cases (Franklin and Kosaki 1995, Scott and Saunders 2006), but Hoekstra's (2000, 2003) results for the same variable are decidedly mixed. Other inconsistently performing variables include gender, education, and support for the Court.

Some of the inconsistencies may result from the measure of awareness employed in the studies. As noted above, relying on self-reported exposure (e.g. Scott and Saunders

2006) is problematic because it assumes people understand the Court cases. One way this problem manifests itself is over reporting. The mixed results may result from many public law scholars overlooking variables identified by others (e.g. Zaller 1992, Price and Zaller 1993, Delli-Caripini and Keeter 1996) as important predictors of knowledge specific political events. Investigating awareness of Court decisions also suffers from a lack of quality data on awareness of Court decisions. Few surveys include appropriate items to investigate this research question, as surveys are not generally geared toward the Court or its schedule. Consequently, it is necessary to revisit awareness of Court decisions measured by reception and the individual characteristics that influence understanding cases.[27]

Data and Methods

The investigation of the individual-level influences on receiving cases begins by establishing reception rates for *Webster, Stanford, Van Orden,* and *McCreary*. The data for *Webster* and *Stanford* are the 1989 Pilot, which is a four-wave panel study. The first and second waves are the pre- and post-election 1988 NES survey that provides respondent political attributes and demographic characteristics, which are important in the next section of this chapter. In this section, I focus on the third wave of the 1989 Pilot, which is a sub-sample of individuals completing the 1988 NES panel survey and was conducted immediately after *Webster* and *Stanford* from July 6 to August 1, 1989.[28] The third wave of the 1989 Pilot provides items to determine self-reported exposure to

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[26] Scott and Saunders (2006) do not distinguish between self-reported exposure to *Van Orden* and *McCreary*. Instead, their exposure item is about a case involving the Ten Commandments.
[27] Price and Zaller (1993) perform similar analysis for *Webster* and *Stanford* using whether a respondent understood the decisions to measure awareness, but I am not simply relying on their analysis.
[28] *Stanford* was decided on June 26, 1989 and *Webster* was decided on July 6, 1989.

Webster and *Stanford* as well as reception of the cases measured by whether an individual understood the decisions. During the fourth wave, respondents from the third wave were re-interviewed between September 6 and October 6, 1989. These individuals were again asked the same items to gather self-reported exposure and reception rates of *Webster*. The fourth wave does not measure whether individuals received *Stanford*.

The data for *Van Orden* and *McCreary* are provided by the 2005 Experiment. Similar to the 1989 Pilot, the data collected in 2005 is a two-wave panel study designed to book end the cases. The pre-decision surveys were conducted between June 17 and June 23, 2005. The Court announced *Van Orden* and *McCreary* on June 27, 2005. The post-decision surveys were administered after the cases were announced between June 28 and June 30, 2005. The pre-decision survey portion of 2005 Experiment provides similar personal characteristics as the pre-decision 1989 Pilot. Self-reported exposure and reception of the cases are derived from the post-decision surveys. The proximity of the surveys to the Court cases should reduce contamination from other events.

The two datasets allow measurement of receiving the cases by determining whether an individual understood the decision. Reception of *Webster, Stanford, Van Orden,* and *McCreary* are coded in a similar fashion from two survey items. The first question tracks self-reported exposure and the second determines whether an individual understood the decision. Together, these items allow me to determine who has received the Court's message and who has missed it. The items measuring self-reported exposure are close-ended and prompt respondents for whether they remember a recent case about abortion, the death penalty, or publicly displaying the Ten Commandments. The exposure items are as follows:

Webster: Have you heard or read any stories about a U.S. Supreme Court decision this summer on abortion?

Stanford: Have you heard or read any stories about a U.S. Supreme Court decision this summer on the death penalty?

Van Orden: Have you heard of or read about a U.S. Supreme Court case this year about removing the Ten Commandments from display on a state capitol?

McCreary: Have you heard of or read about a U.S. Supreme Court case this year about removing the Ten Commandments from display in a courtroom?

Individuals responding "no" or "don't know" to the exposure items are coded as not receiving the Court's message. While some previous scholars tended to stop here and consider only those who report exposure to the cases as receiving the Court's message, I take the additional step of assessing if an individual can put the case outcome in his/her own words. Individuals responding "yes" to the exposure items are next prompted by open-ended questions asking them to describe the Court's decision. Only those individuals who report exposure to the case and demonstrate that they understood the decision are coded as receiving the Court's message.

Due to the important role that understanding a decision plays in determining reception of the Court's message, it is necessary to discuss how the open-ended items for the cases are coded. For *Webster* and *Stanford*, even though the comprehension items are open-ended, I did not code reception directly from respondent answers. Instead, I recoded categories provided by the NES. Examples of correct answers offered by individuals who

are coded as receiving *Webster* range from basic descriptions like "upheld *Roe v. Wade*/didn't overturn *Roe v. Wade"* to more sophisticated categories mentioning specific details about the provisions of Missouri law at issue in the case. The response categories for *Stanford* have a similar range of detail.

For abortion and *Webster*, the self-reported exposure and comprehension items appeared immediately after *Webster* and several months later in the 1989 Pilot, which allows me to determine short- and long-term reception rates. Short-term exposure and reception rates were measured between July 6 and August 1, 1989. Long-term exposure and reception rates were measured between September 1 and October 1, 1989. Short- and long-term reception rates are coded in the same manner. Tables 3.2 and 3.3 summarize the categories used to code respondents as having either received or missed the Court's cues in the cases.[29]

Since I conducted the quasi-experiment to collect data on the effect of *Van Orden* and *McCreary* on attitude change, I determined whether an individual received the Court's message in either case. In order to be coded as receiving the cases, correct answers for *Van Orden* had to recognize that the Court approved of the Texas display. For *McCreary*, the answers must include a reference to the Court ruling against the Kentucky display.[30] Examples of individuals receiving *Van Orden* include "They can be

[29] The reception rates for *Webster* and *Stanford* below are consistent with those found by Price and Zaller (1993). Although the results are the almost identical, I did not rely on Price and Zaller's (1993) coding for "recall" of these decisions. The consistent results provide some degree of confidence in my coding scheme as I independently arrived at the same reception or "recall" rates as Price and Zaller. One reason for coding the data independently is that Price and Zaller did not include their coding rules for whether an individual recalled the cases.

[30] The content analysis was conducted only by the author. Consequently, inter-coder reliability statistics are not available.

displayed outside [of the Texas State Capitol]" and those who distinguished the Texas case from *McCreary* like "they kept [the Ten Commandments] in Texas and rejected it in Kentucky" or detailed responses similar to the arguments presented by the Court, "The Court decided that the commandments could stay [in Texas]. One of the reasons was that they had been there for 40 years, 2 generations…and they were one of many monuments." Examples of incorrect summaries of *Van Orden* include "displaying the Ten Commandments violates the establishment clause" and for *McCreary*, "in Alabama, I believe the Court removed the commandments". Again, individual responding, "don't know" or refusing to answer are coded as missing the case.

Results

Table 3.4 presents rates of self-reported exposure and reception as measured by understanding the decisions for Webster, Stanford, Van Orden and McCreary.

The data in Table 3.4 generally indicate that substantial portions of the samples reported exposure to the Court cases. For three of the four cases, self-reported exposure exceeds 50% and it reaches 80% for *Webster* immediately after the case, but this falls to 69% a few months later. Self-reported exposure to *Van Orden* is 76%, which comes close to the immediate exposure rate for *Webster*. Exposure rates for *McCreary* and *Stanford* are lower than the other two cases at 53% and 34%, respectively.

As discussed earlier, much of the existing work on awareness of Court decisions relies on self-reported exposure, which I contend is problematic. Self-reported exposure should be a starting rather than ending point. The problems with self-reported exposure are illustrated by comparing the number of individuals claiming they heard of a case to

those actually understanding it. While 80% of the respondents indicated hearing about an abortion case immediately after *Webster,* 52% of individuals demonstrated reception by correctly describing the case outcome. Shifting to the long-term recall of the case, exposure drops to 69% while comprehension holds relatively stable at 49%. It is worth noting that self-reported exposure rates decay over time while reception rates hold steady. Although Price and Zaller (1993) find the same reception rate for *Webster,* they only examine for short-term recall of the case. Franklin and Kosaki (1995) demonstrate that awareness of cases as measured by exposure decreases overtime, but do not look at decay in rates of understanding the decisions.

Self-reported exposure and reception rates for *Stanford*, *Van Orden*, and *McCreary* were measured only immediately after the cases were announced. *Stanford* has the lowest reception rate of the four cases at 16%. Measured by comprehension, reception of *Van Orden* and *McCreary* are again much lower than self-reported exposure as 45% correctly explained *Van Orden* and 35% demonstrated a basic knowledge of *McCreary*. The difference in reception rates for the two Ten Commandments cases is statistically significant.

The results in Table 3.4 demonstrate the importance of using comprehension rather than self-reported exposure to measure reception of the Court's message. Some people were willing to claim exposure even though they did not actually understand the decision or perhaps never really heard of it. Exposure rates consistently exceed reception rates by a wide margin. The results also indicate that reception consistently reduces over reporting. Reception insures that individuals who are coded as being aware of the case

actually understood it. Without understanding the decisions, it is unlikely that the individual received the Court's message.

Although measuring reception by comprehension of cases is an improvement over other methods used to assess awareness of Court decisions, there are some potential problems with this approach. First, the measure is still subject to the possibility of over reporting. Individuals may have correctly guessed the outcome of the cases, but I don't think this is a major concern likely. Using an open-ended item should reduce the ability of respondents to correctly guess the case outcome. This is designed to reduce over reporting, but not completely eliminate it.

A second potential drawback is that reception rates were measured in the post-decision waves of panel studies. A possible problem with using panel studies is that respondents are primed to think about particular subjects, such as the Court or politics more generally, than they would normally. While respondents may be primed about politics in general, I do not think priming about the Court is a major concern due to the nature of the survey instruments used in the 1989 Pilot and the 2005 Experiment. The 1989 Pilot taps many political attributes and issue positions; it is a massive survey. It is unlikely that the few questions about the Court, abortion, and the death penalty on the lengthy surveys received special attention from the respondents and they would pay more attention to these issues throughout the study. The 2005 Experiment also included items unrelated to the Court to avoid priming individuals. The non-Court items included evaluations of other political actors and issues such as steroids in baseball in the pre-decision survey. In addition, the order of the issue questions was randomized on four

different forms. Last, when I conducted the pre-decision surveys for the experiment, respondents did not know the specific research question.

Taken together, the results indicate that that the conventional wisdom can understate public awareness of Court activity. Some individuals received the Court's messages in *Webster, Stanford, Van Orden,* and *McCreary,* albeit with different reception rates for each case. Reception as measured by an individual demonstrating that he/she understood the decision is a theoretical and practical improvement over previous methods for attributing attitude change to the Court. It lowers over reporting and permits one to isolate individuals who actually understood the decision. While the descriptive statistics in Table 3.4 are informative, it is also necessary to investigate the individual level characteristics that systematically influence reception of Court cases. This is the focus of the next section.

INDIVIDUAL-LEVEL CHARACTERISTICS THAT INFLUENCE RECEPTION

The previous section performed an important task by establishing reception rates for *Webster, Stanford, Van Orden,* and *McCreary.* However, the individual-level factors that influence reception are still an open question. In order to determine the characteristics that influence reception of Court cases, I estimate a series of regression models using the 1989 Pilot and the 2005 Experiment. As noted earlier, reception of cases has two components. First, individuals must be exposed to the Court case. Second, individuals need to understand the information. Those who demonstrate they understand the decision are coded as receiving the case (1). Individuals who do not report exposure, explain the case incorrectly, respond don't know or refused to answer are coded as

missing the elite cue provided by the justices (0). Reception is measured separately for each case and the models are estimated for each decision. Since the 1989 Pilot tracks exposure and comprehension of *Webster* immediately after the case and several months later, I estimate a second reception model for *Webster* using the later measurement to see if any factors influencing awareness change over time.

Reception of cases should be influenced by several variables. Previous research has demonstrated that general political information and education are strong predictors of knowledge about specific events like Court cases (e.g. Zaller 1992, Price and Zaller 1993, Delli-Carpini and Keeter 1996). While some public law scholars include education in their analysis, political information is often overlooked. Political information is measured by the number of fact-based questions correctly answered by individuals in the 1989 Pilot or 2005 Experiment. Education is a scale based on the highest level of educational attainment ranging from less than eight years of education (0), no high school diploma (1), high school diploma (2), some college (3), junior college or community college degree (4), college degree (5), to advanced degree (6). Education does not appear in the models for *Van Orden* and *McCreary* due to the sample being drawn from college students with the same general level of educational attainment.

Public law scholars consistently contend that media consumption is critical to awareness of Court cases (Franklin, Kosaki and Kritzer 1993, Franklin and Kosaki 1995, Hoekstra 2003, Scott and Saunders 2006). The logic is as follows. In order for the Court to influence public opinion, the media must cover its decisions because people do not find out about the cases on their own. Individuals with higher levels of news consumption should be exposed to more media reports about the cases, which should increase

awareness. News consumption is measured by two variables for *Webster* and *Stanford*, and three variables for *Van Orden* and *McCreary*. For *Webster* and *Stanford*, news consumption is measured by the number of days a week an individual watches television news broadcasts or reads a newspaper. For *Van Orden* and *McCreary*, I also include the number of days per week an individual consumes Internet news.

Another way to measure interest in politics is the number of times per week an individual talks with others about the subject. Those who have more frequent political discussions should be more likely to receive new information like Court cases. The 1989 Pilot provides this variable for *Webster* and *Stanford*, but a similar item was not included in the 2005 Experiment. Talking politics is coded for the number of days per week in the 1988 NES Pilot that an individual engaged in political discussions with others ranging from zero to every day.

Individuals with high levels of interest in the Court or the issues associated with the cases should also be more likely to receive the elite cue provided by the justices. Those who hold the Court in high regard should be more interested in its activity and cases (e.g. Hoekstra 2003).This is measured by a feeling thermometer for whether an individual likes or dislikes the Court. Those with extreme initial positions should be more likely to follow the cases, as they should have higher interest in the issue than those with moderate positions (Price and Zaller 1993, Hoekstra 2003). For *Webster*, extreme initial position is coded 1 if the respondent's abortion position is that the procedure should always be legal or always illegal, 0 otherwise. For the other cases, extreme initial position is coded 1 if the respondent either strongly agrees or strongly disagrees with the death penalty, the Texas Display, or the Kentucky display, 0 otherwise. Consistent with

previous public law scholars (Franklin and Kosaki 1995, Hoekstra 2000, Hoekstra 2003), I also include gender, race and age as these may indicate higher levels of interest in and knowledge about politics. Gender coded as female (1) and male (0), race is coded for white (1) and non-white (0), and age by how old the respondent is in years.

Political characteristics and religion may also increase interest in these cases. Partisans and those self-identifying as liberal or conservative should be generally more interested and informed about politics. Partisanship is measured by one dummy variable for being a Republican and another for Democrat with Independent and other as the excluded category.[31] Ideology is coded in a similar manner with a dummy variable for liberal and one for conservative with moderate the excluded category. Since the cases involve issues related religion, I also include measures of religious denomination and church attendance. For *Webster* and *Stanford*, religion is coded for whether an individual is a Catholic (1) or not (0). For *Van Orden* and *McCreary*, religion is a dummy variable for whether one self-identifies as a Christian (1) or not (0). Church attendance is measured by a scale for the number of times per week an individual attends religious services ranging from never (0) to weekly (4).

Due to the dichotomous dependent variables measuring reception of each case, I estimate the models using logistic regression (Green 2001). Since the coefficients of logistic regression models are not directly interpretable, I also present the changes in the predicted probability of receiving the cases for substantively interesting results.

Results

The regression results for the reception models are presented in Table 3.5.

The logit coefficients in Table 3.5 and substantive results below indicate three general points about the factors influencing reception of the cases. First, political information is the only variable that increases reception of all four cases. Second, even though public law scholars contend media consumption is critical to awareness of cases, it performs poorly for three of the four cases. Third, if there is an effect of other variables on reception of the cases, the results are not consistent across the models.

Figure 3.1 and 3.2 present the effect of political information and education on case awareness.

As indicated in Figure 3.1, the effect of political information on reception of each case is substantial. Individuals with little general political information are far less likely to understand each case than those with more information. For *Webster*, *Van Orden*, and *McCreary*, those with high levels of general knowledge are almost guaranteed to receive the cases. The effect of political information on receiving *Stanford* is less dramatic than it is for the other three cases.[32] As illustrated by Figure 3.2, the effect education on short- and long-term reception of *Webster* is substantial, but slightly less than the effect of political information. The small differences between short- and long-term reception of

[31] When coding partisanship, leaners are included as identifying with the party they feel closer to. This may overestimate the partisans of each party, but leaners should generally act like partisans (Keith et. al. 1992).
[32] The lines representing the effect of political information on receiving each case have different lengths. This reflects the data rather than a presentation error. The line for *Stanford* is shorter than those for the other cases because none of the individuals included in the analysis had the highest possible score on the political information scale. The battery of questions measuring political information in 2005 Experiment had one more question than the 1989 Pilot, which explains why those lines are longer than the ones for *Webster*.

Webster do not appear to be very meaningful. Education is not related to receiving *Stanford.*

Figures 3.3 and 3.4 present the effect of media consumption and talking politics on receiving cases.

Contrary to the expectations of public law scholars and in line with Price and Zaller's (1993) findings, news consumption is not a consistent predictor of receiving the cases. Consumption of television news increases the probability of understanding *Stanford*, but as illustrated in Figure 3.3, the effects are modest. The frequency of political debate is also only related to short-term reception of *Webster.* As illustrated in Figure 3.4, as talking about politics increases from zero days per week to seven, the probability of short-term comprehension of *Webster* increases from .52 to .70.

Those with extreme pro-choice or pro-life initial positions have a slightly higher probability of receiving *Webster* in both post-decision waves than those holding moderate abortion pre-decision attitudes. Immediately after the *Webster*, the probably of receiving the case was .53 among those with moderate initial positions and increases to .66 for individuals with extreme pre-decision attitudes. In the long-term, the same pre-decision positions lead to an increase from .49 to .63. Again, the differences between the short- and long-term results are not very instructive. Individuals who either strongly agree or disagree with the death penalty, however, are slightly less likely to receive the justices' message in *Stanford* (.12) compared to those with moderate pre-decision attitudes (.20). Whether one held an extreme or moderate initial position on the Texas or Kentucky displays is not related to receiving *Van Orden* or *McCreary*.

The remaining results for continue the trend of inconsistency across models. Even though the results are uneven, when there is an effect of a particular variable on receiving one or more cases, it can be substantial. The probability of receiving *Van Orden* for Whites is .52 and drops to .27 among non-Whites. Conservatives are far more likely to receive *Van Orden* (.84) than non-conservatives (.33) and women have a higher probability of understanding *McCreary* (.42) than men (.18). Figure 3.5 presents the negative effect of age on long-term reception of *Webster*.

The probability of long-term comprehension *Webster* drops from .67 among the youngest in the sample to .38 among the oldest. Last, as illustrated in Figure 3.6, increased church attendance is related to long-term reception of *Webster*.

The probability of long-term comprehension of *Webster* increases from .48 among those never attended religious services to .63 for individuals with weekly attendance.

DISCUSSION

Measuring case awareness by reception makes the critical theoretical distinction between being exposed to new information and understanding it. The results indicate that there is also an important empirical difference between exposure to and understanding Court cases. Whether measured for *Webster*, *Stanford*, *Van Orden* or *McCreary* self-reported exposure would result in classifying a meaningful number of people as receiving Court cases who did not understand the justices' message. Moving to reception avoids this problem by insuring individual who claim exposure actually understand the case. In

the four cases, this is illustrated by the substantial reduction in over reporting. Properly measuring case awareness has practical implications for studying Court-driven attitude change. If one relies on self-reported exposure alone, then a substantial number of people would be coded as aware of the Court's message even though they did not understand it or actually receive it in the first place.

The conventional wisdom asserted by Segal and Spaeth (1993) and Segal, Spaeth and Benesh (2006) that individuals are generally unaware of Court decisions is probably true for most cases. Individuals may not be aware of most Court decisions, but each year there are a few that receive sufficient media attention to reach sizable portions of the public such as the four cases in this study. The reception rates ranging from the low of 16% for *Stanford* to the high of 52% for *Webster* are consistent with the results of other scholars measuring case awareness this way. The lower rate for reception for *Stanford* could be a result of less media coverage of the case, but this chapter does not address how much media reporting is required for higher levels of case awareness. The results once again demonstrate that some Court decisions garner enough of the public's attention to possibly influence their attitudes on the issues associated with the cases.

The results indicate that general political information is critical to explaining reception of cases. Political information is the only variable that is significant across every model. This demonstrates that failing to include general political knowledge when explaining individual-level awareness of Court decisions raises some concern. Scholars who leave this variable out of their analysis (e.g. Hoekstra 2003, Franklin and Kosaki 1995) are omitting an important factor in explaining awareness that may overshadow the

effect of variables previously thought to be crucial to this process like media consumption.

The substantial effect of political information on reception of cases suggests it may be a reasonable proxy for case awareness; however, it still assumes comprehension of a decision rather than measuring it. While increased political information is associated with a higher probability of receiving the case, it is not a direct measure of case awareness. Consequently, it is uncertain whether individuals with certain levels of political information understood the cases. Since a more direct measure is available, reception based on comprehension of the decision, I will use it instead of relying on a proxy.

Several other individual-level characteristics are related to understanding *Webster*, *Stanford*, *Van Orden* and *McCreary*, but the results are mixed and uneven across the cases. Some variables have a large effect for receiving certain cases, but not others. For example, higher levels of education increase the probability of receiving *Webster*, but not *Stanford*. While having a strong initial position increased comprehension of *Webster*, it had the opposite effect on receiving *Stanford.* This surprise demonstrates the uneven nature of the results.

The differences in the effect of ideology and gender on awareness of *Van Orden* and *McCreary* are notable because the two cases were decided on the same day and deal with similar issues. These results seem to raise more questions than they answer. It is possible that conservatives were more likely to remember *Van Orden* because the Court announces a policy that is generally conservative. If individuals remember more details about cases they are ideologically predisposed to agree with, liberals should have been

more likely to correctly explain *McCreary*. This was not the case. Also, why would women be sometimes more likely to receive one Ten Commandments case than men, but not the other? Women may be more likely to be aware of Court decisions (Hoekstra 2003), but with the cases often reported together, it is surprising that the results are different.

The lack of a systematic influence of news consumption and support for the Court are worth noting. The only significant effect of media consumption on reception of cases is that of television news on awareness of *Stanford* and it is modest. This is in line with Price and Zaller's (1993) argument that previous confidence in this variable to explain awareness of political events like Court decisions is misplaced. This also creates something of a puzzle. In order for the public to receive the Court's elite cue, the media must cover the decisions as few if any individuals will learn about the cases on their own. The more coverage a case gets, then the more likely it is that the public will be aware of the Court's actions (Franklin and Kosaki 1995), but media consumption is generally not related to reception of cases. This could result from over reporting of media consumption creating inflated estimates of how much individuals actually pay attention to the news (Price and Zaller 1993, Prior 2005).

Support for the Court also performed poorly as a predictor of understanding *Webster*, *Stanford*, *Van Orden*, and *McCreary*. This may result from the measuring support for the Court using a feeling thermometer. A feeling thermometer is not capable of measuring two different aspects of support for the course—diffuse and specific support. A more nuanced battery of questions assessing support for the Court along these two important dimensions may yield better results (Grosskopf and Mondak 1998,

Calderia, Spence, and Gibson 2003). However, this method of assessing support for the Court is not available in either the 1989 Pilot or the 2005 Experiment.

At least two factors limit the results of this chapter—case salience and the sample for the 2005 Experiment. The cases in this study are all salient for two reasons: media attention and personal relevance. When these cases were decided, each appeared on the front page of the *New York Times*. Adding to Epstein and Segal's (2000) front-page test, the media reported on these cases during the year prior to the decisions. Most Court cases do not approach receiving this kind of media attention. These cases also deal with issues personally relevant to many individuals that increase awareness (Franklin and Kosaki 1989, Johnson and Martin 1998). Salient cases such as *Webster*, *Stanford*, *Van Orden*, and *McCreary* are not representative of the Court's docket. Restricting the analysis of case awareness to salient ones may artificially inflate reception levels. Even though these were salient cases, the highest level of reception in this study was 52%. This suggests that even when the public is paying attention to Court decisions, at least one-half of the population is not receiving the justices' message.

Although the 1989 Pilot study is drawn from a representative sample of adults, the 2005 experiment was limited to college students. The small and unrepresentative nature of the 2005 Experiment sample limits the generalizability of the results for *Van Orden* and *McCreary*. However, I feel this design is justified due to the limitations of existing data to research this question.

The results of this chapter confirm that measuring awareness of cases by reception is an improvement over other methods employed by some public law scholars. While outside of political information there were no consistent predictors of receiving the four

cases, the results demonstrate that some people received the Court's message in *Webster*, *Stanford*, *Van Orden* and *McCreary*. The question for the next two chapters is whether receiving the elite cue provided by the Court influences attitude change.

Chapter 4: The Effect of Receiving *Webster* and *Stanford* on Abortion and Death Penalty Attitudes

The previous chapters developed reception of cases as an improved way to measure case awareness and attribute attitude change to the Court. These chapters also addressed the broader elite debate surrounding the cases and reception rates for the cases including the individual-level factors that influence case awareness. In this chapter, I begin to combine these elements into examining the public's response to Supreme Court cases by testing the hypotheses outlined in Chapter 2. Specifically, I focus on the effect of receiving the Court's elite cues in *Webster* and *Stanford* on abortion and death penalty attitudes.

Given the tendency of political scientists to focus on salient issues and cases (Hoekstra 2000), it is not surprising that other scholars have investigated the effect of abortion and death penalty cases on public opinion. These scholars employ different methods to assess the Court's influence on public opinion. One approach is to compare attitudes before and after Court cases (Marshall 1988, Marshall 1989, Rosenberg 1991, Craig and O'Brien 1993). Other scholars use a post-decision measure of self-reported exposure to attribute aggregate level attitude change on abortion across two different samples (Franklin and Kosaki 1989, Johnson and Martin 1998, Brickman and Peterson 2006) and individual-level in panel studies (Brickman and Peterson 2006). Others employ experimental designs (e.g. Hoekstra 1995). Taken together, the results across these different research designs are mixed--sometimes the Court can influence abortion and death penalty attitudes to varying degrees, but not others.

Although the results are mixed, previous research by public law scholars points to the importance of personal characteristics like religion (Franklin and Kosaki 1989, Johnson and Martin 1998) and political attributes including partisanship (Brickman and Peterson 2006) to the Court's influence on abortion and death penalty attitudes. In this chapter, I build on this research tradition in three ways. First, I test the effect of receiving Court decisions as measured by understanding the cases, which I developed in Chapters 2 and 3. Second, I incorporate the findings of political behavior scholars more broadly like Zaller (1992) and Gilens (2001) into tests for the effect of the Court on public opinion. This allows exploring the effects of receiving the justices' cues compared to those from other political elites on public opinion. Third, in addition to estimating the immediate effect of receiving *Webster* and *Stanford* on public opinion, the data permit analyzing the long-term effects of receiving *Webster* on abortion attitudes.

As demonstrated by Brickman and Peterson (2006), partisanship can affect the way individuals respond to Court cases. While I have been discussing political elites in general terms and specifically for the Court, the effect of party elites on abortion attitudes warrants separate attention.

ABORTION, PARTY ELITES AND THE EFFECT OF *WEBSTER* PARTISANS

At the time of *Webster,* the Democratic and Republican parties had clear and increasingly divergent abortion positions. The alignment of party elites on abortion takes shape in the 1980s as Republican and Democratic elites polarize becoming more pro-life and pro-choice in Congress (Carmines and Woods 2002). Similar changes take place among campaign activists (Adams 1997) and national convention delegates (Adams

1997, Layman and Carsey 1998, Carsey and Layman 1999). At the end of this change, pro-choice elites dominate the Democratic Party and pro-life elites ascend in the Republican Party. As the intra-party elite abortion positions become more homogenous, the public responds by gravitating toward the new abortion positions of their party (Adams 1997).

Partisan elite cues were also clear on *Webster*. The specific Supreme Court battle over *Webster* began in 1988 when the Court agreed to take the case. The Reagan administration participated with a brief that explicitly called for overturning *Roe*. Republican elite opposition to abortion continues in 1989 when Bush administration Solicitor General Charles Fried argued on behalf of the Missouri statute and that *Roe* should be overturned. After the decision, although *Webster* did not overturn *Roe*, the Bush administration approved of the generally conservative decision permitting state-level regulation of abortion. According to Bush Administration Attorney General Dick Thornburg, *Webster* was "most welcome in that it recognizes an increased role for state legislatures in regulating abortion" (Greenhouse 1989).

The cues from the party elites to partisans were clear on *Webster* and abortion more generally. For the Republican Party, *Roe* should be overturned and short of that, restricting abortion is desirable. For the Democratic Party, *Roe* needs to be protected from attack and abortion should continue to be a constitutional right. Upon receiving these clear elite cues, partisans should gravitate toward the position of their own party elites. This leads to the *comprehension-party identification hypothesis.*

Comprehension-Party Identification Hypothesis: Partisans receiving the Court's message will exhibit attitude change consistent with the elite cues provided by their party.

For Republicans, this means becoming more conservative on abortion while Democrats should become more liberal. The question becomes whether those partisans receiving the Court's message exhibit systematically different signs of attitude change than those unaware of *Webster*. *Webster* should reinforce the pro-life elite messages for Republicans that receive the case. Democrats, on the other hand, should respond to the case through their pro-choice partisan lens.

In this chapter, I test the *comprehension, comprehension-polarization, comprehension-affinity for the Court, comprehension-elite alignment,* and *comprehension-party identification* hypotheses for *Webster* and *Stanford* using the 1989 Pilot. I begin by briefly discussing the data and describing attitude change on abortion and death penalty attitudes. Next, I estimate the effect of receiving *Webster* and *Stanford* on abortion and death penalty attitudes. The last section discusses the results and implications of the findings.

THE EFFECT OF RECEIVING *WEBSTER* AND *STANFORD* ON ATTITUDE CHANGE

Prior to investigating whether the Court is driving public opinion, it is necessary to establish that respondents exhibited any signs of attitude change. Due to the nature of the NES items for abortion and the death penalty, it is necessary to discuss the question and response options. The 1989 NES Pilot study featured experimental questions to investigate the effect of question framing on responses for several subjects including

abortion[33] and the death penalty,[34] but the frames do not systematically influence the results below.

For abortion, the response options, which feature two absolutist positions and two positions of varying exceptions, are the same for both question frames. The response options for the abortion item are as follows:

1. By law abortion should never be permitted.

2. The law should permit abortion only in the case of rape, incest or when the woman's life is in danger.

3. The law should permit abortion for reasons other than rape, incest, or danger to the woman's life, but only after the clear need for the abortion has been established.

4. By law, a woman should always be able to obtain an abortion as a matter of personal choice.

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[33] The non-framed question was, "There has been some discussion about abortion during recent years. Which one of the opinions I am about to read you best agrees with your view on abortion?" The framed question was, "There has been some discussion about abortion during recent years. Some Americans oppose abortion: they think of themselves as 'pro-life'; they believe that abortion is murder. Other American believe that a woman should have the right to an abortion: they think of themselves as 'pro-choice'; they believe whether or not to have an abortion must be the woman's choice, not the government's. Which one of the opinions I am about to read you best agrees with your view on abortion?"

[34] The three versions of the death penalty question are: "Do you favor or oppose the death penalty for the crime of murder?", "There is still much controversy about the death penalty in murder cases. Some people favor the death penalty because they believe it deters crime. Others oppose the death penalty because they believe killing another human being is always immoral, even the killing of someone how has committed murder. Do you favor or oppose the death penalty for the crime of murder?", and "There is still much controversy about the death penalty in murder cases. Some people say that murder is so awful a crime that it deserves to be punished by death. Others oppose the death penalty. They say it is unconstitutional because it is 'cruel and unusual' punishment. Do you favor or oppose the death penalty for the crime of murder?"

Although the response options are categories that include circumstances different in nature, comparing respondent positions before and after *Webster* sheds light on whether there is any attitude change. From these items, it is possible to construct a scale of whether an individual generally becomes more liberal or conservative on abortion by allowing the procedure in a different number of circumstances after *Webster*. The question has also been demonstrated to be reliable in previous surveys. Individuals responding "don't know" were eliminated from the analysis.

In addition to the presence of three framed versions of the death penalty item, the response options assessing one's death penalty position changed between the pre- and post-*Stanford* surveys. Both surveys had individuals place themselves on a scale of support for the death penalty—strongly favor, not strongly favor, oppose not strongly, oppose strongly—but the 1988 survey included an option for "it depends". Since this response option did not appear in the 1989 NES Pilot, individuals selecting "it depends" were eliminated from the analysis in addition to those that responded "don't know". After eliminating these individuals, it is also possible to construct a scale for whether an individual increased or decreased his/her level of support for the death penalty after *Stanford*.[35]

Table 4.1 presents individual level short-term and long-term attitude change on abortion following *Webster*, and short-term attitude change on the death penalty after *Stanford*.

[35] Excluding individuals responding don't know or it depends has consequences. The Court may be educating individuals who were uncertain before the case causing them to take positions in the post-decision survey. Alternatively, receiving the Court's message may cause an individual to doubt his/her pre-decision position, perhaps by showing reasonable arguments on both sides, to the point of becoming unsure. I chose to do this because my interest is whether the Court is causing individuals to become more

The data demonstrate that individuals exhibited attitude change on both abortion and the death penalty. Immediately after *Webster*, 35% of the sample offered a different position compared to the pre-decision survey. Individuals tended liberalize on abortion with 21% percent of the sample permitting abortion in more circumstances after the *Webster* and 14% moving in a conservative direction. In the long-term, the pattern is repeated as 37% of the sample exhibit signs of attitude change two months after *Webster*. Also in the long-term, 23% of respondents became more liberal compared to their pre-*Webster* position and 14% became more conservative. While the differences between short- and long-term attitude change are not very instructive, the results demonstrate that over one-third of individuals exhibited signs of attitude change on abortion following *Webster*.

Following *Stanford*, there is also evidence of attitude change. Twenty-eight percent of individuals changed their level of support for the death penalty with 15% of individuals losing support for capital punishment while 13% move in the opposite direction.

Finding changes in public opinion on abortion and the death penalty is one thing; attributing the shift in attitudes to the US Supreme Court is another. Whether this attitude change is systematically related to receiving the Court's messages in *Webster* and *Stanford* is the focus of the next section.

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liberal or conservative on abortion and the death penalty. Moving from uncertainty to certainty (or vice versa) may indicate this, but could be a different process.

ATTRIBUTING CHANGING ABORTION AND DEATH PENALTY ATTITUDES TO THE COURT

If the Court is driving abortion and death penalty attitudes, those receiving the justices' elite cue should respond differently to the decisions than those unaware of the cases. As discussed in Chapter 3, short-term reception rates of *Webster* and *Stanford* are 52% and 16%, and the long-term reception held constant for *Webster* at 49%. According to the *comprehension hypothesis*, individuals who receive the Court's cue in *Webster* and *Stanford* should be more likely to move toward its position. While the Court upheld the central premise of *Roe* by not overruling it, the decision permitted increased state regulation abortion rights. This represents a restriction rather than expansion of abortion rights. In *Stanford*, the Court approved the imposition of the death penalty on convicted murders who were minors when committing the crime. If, as contended by the *comprehension hypothesis*, the Court is educating and persuading the public, then individuals who understand the decision should lose support for abortion by allowing the procedure in fewer cases. Following *Stanford*, individuals receiving the justices' cue should become more supportive of the death penalty.

Table 4.2 provides an initial test of the *comprehension hypothesis* by presenting attitude change on abortion and the death penalty by reception of *Webster* and *Stanford.* Individuals who report exposure to the cases and demonstrate that he/she understood the decisions are coded as receiving the justices' cue and not receiving it otherwise.

The data in Table 4.2 do not support the *comprehension hypothesis* for *Webster* or *Stanford*. Instead of becoming more conservative on abortion and the death penalty, those

who understand the cases move away from the Court's articulated position. In the short term, 19% of those who understand Webster become more liberal on abortion while 10% become more conservative. These effects persist in the long-term. This indicates that the effect of receiving *Webster*, while contrary to the *comprehension hypothesis*, is durable.

Unlike the results for *Webster*, more of those receiving *Stanford* had higher attitude instability than individuals who did not receive it. Among individuals receiving the Court's message, attitude change is evenly split between those gaining and losing support for the death penalty. Among those not receiving the justices' cue, individuals losing support for the death penalty exceed those gaining support.[36]

Taken together, the data suggest that support for abortion rights increased, which indicates a backlash against the Court's positions. Due to factors like sample variation, the small differences in attitude change by reception of *Stanford* are probably not meaningful. I now turn to regression analysis to determine whether *Webster* and *Stanford* systematically influenced these changes.

To investigate whether the US Supreme Court is driving abortion and death penalty attitudes, I estimate a series of models separately for the effect of receiving each case on attitude change consistent with the hypotheses developed in the previous two chapters. The analysis proceeds in two stages. In the first stage, I estimate the short-term and long-term effects of receiving *Webster* on abortion attitudes. In the short-term

[36] While it is possible that those mischaracterizing *Webster* and *Stanford* are changing their positions in accordance with their misperception of the Court's decision, the coding of reception does not permit this conclusion. Contending that *Webster* or *Stanford* were liberal decisions is only one of several possible reasons for being coded as not receiving the cases. Those reasons include individuals not exposed to the case, those who reported exposure and could not remember what the decision was about, and individuals refusing to answer. Consequently, not receiving the Court's message is different from getting the case wrong such as attributing an opposite outcome in *Webster* to Court. As discussed below, future work

Webster models, the dependent variable is whether an individual allows abortions in more circumstances (+1), fewer circumstances (-1), or the same number of circumstances immediately after *Webster* in July 1989 compared to his/her initial abortion position in 1988. The dependent variables are creating by by subtracting the pre-*Webster* positions from post-*Webster* positions. This creates a possible seven-point scale that I collapsed into a three-point scale for becoming more liberal on abortion, more conservative on abortion, or no change.[37] Individuals who reported "don't know" or refused to answer were eliminated from the analysis. In the long-term abortion models, I compare an individual's initial position in 1988 to the one reported in September or October 1989. The dependent variable in the long-term model is constructed the same way as the short-term abortion models. After estimating these effects, I will compare the results short- and long-term models to determine if there is an immediate effect of receiving *Webster* on attitude change and whether it changes over-time. It is also possible that the effect of *Webster* on abortion attitudes is not immediately apparent and only reveals itself several months later.

The second stage of the analysis investigates the effect of receiving *Stanford* on the probability that an individual will alter his/her death penalty position. The dependent variable is constructed in a similar manner as the abortion models by subtracting an individual's pre-*Stanford* death penalty positions from his/her post-*Stanford* position. The

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should have a more sensitive measure of reception to isolate those who think the Court's decision was the opposite of reality to see if they are following a misperceived elite cue.

[37] I collapsed the seven-point scale into a three-point scale because only a handful of cases fall in each of the seven categories. The dependent variables do not necessarily indicate a shift from support to opposition. This could be the case, but it is more appropriate to discuss these changes as increases or decreases in one's level of support for abortion. The construction of the dependent variable also treats all changes in one direction the same. For example, those moving from abortion should never be legal to abortion should

dependent variable is coded for whether an individual gained support (+1), lost support (-1), or did not change (0) his/her level of support for the death penalty. Individuals responding "it depends" in the pre-*Stanford* survey or "don't know" in either wave were eliminated from the analysis for the reasons stated above.[38]

To test the hypotheses outlined in Chapter 2, I estimate five models for the effect of *Webster* and *Stanford* on abortion and death penalty models. Due to the partisan nature of abortion by the time of *Webster*, I estimate a sixth model to determine whether partisans respond differently to the case in light of the elite cues provided by their own party.

Model 1 tests the *comprehension hypothesis*, which contends that individuals who receive the Court's message will be more likely to move toward its position than those unaware of the case. The key independent variable in this model is reception of the case, which is coded the same way as above. Individuals who report exposure to the cases and demonstrate that he/she understood the decisions are coded as receiving the justices' cue (1) and not receiving it otherwise (0). I expect that receiving the Court's message regulating abortion rights in *Webster* will increase the probability of becoming more conservative on abortion. Individuals who receive the pro-death penalty message in *Stanford* should become more conservative on the death penalty as illustrated by being more supportive of capital punishment.

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always be legal are coded as becoming more liberal (+1) as are individuals going from abortion should be legal in some circumstances to all circumstances.

[38] As noted above, there are different question frames for abortion and the death penalty, but the question version does not influence the results. The inclusion of dummy variables for the standard or framed version of the questions does not alter the results. The dummy variables for question type do not approach accepted levels of statistical significance for either the abortion or death penalty models.

There are several control variables in Model 1 for factors that should influence the dynamics of attitude change and the public's response to *Webster* and *Stanford*. One's initial position measured in 1988 is included to capture potential regression to the mean effects common in panel studies due to the tendency of respondents to become less extreme over time (Hoekstra 2000, Hoekstra 2003). Political information is an additive scale from zero to eight constructed from fact-based questions about the role political actors and institutions. Those who hold the Court in high regard should be more open to its persuasion than those with a negative opinion of it. Support for the Court is measured by a feeling thermometer that runs from 0 to 100 and asks subjects to rate how warm or cold they are toward the US Supreme Court. Partisanship is measured by one dummy variable for being a Republican and another for Democrat with Independent and other as the excluded category. Ideology is coded in a similar manner with a dummy variable for liberal and one for conservative with moderate the excluded category. Previous scholars have demonstrated that group membership should influence attitudes toward abortion (Franklin and Kosaki 1989) and the death penalty (Johnson and Martin 1998). Religion, church attendance, gender and race should capture some of these group dynamics and also provides consistency with previous public law research. Religion is coded 1 if the subject self-identifies as a Catholic, 0 otherwise. Church attendance is coded as a scale ranging from never (0) to more than weekly (4). Gender and race are also dummy variables coded 1 for female, 0 otherwise and 1 for African-American and 0 otherwise.

Model 2 tests the *comprehension-polarization hypothesis* that individuals receiving the Court's message will respond to the case by becoming more extreme over time on the issues associated with the decision. To estimate whether those receiving the

justices' elite cue are polarizing on abortion or the death penalty, I add a multiplicative interaction term between comprehension and one's initial abortion or death penalty position to Model 1. If polarization occurs among those who understand the case, the interaction between comprehension and one's initial position should be significant. This indicates that people who understood the cases adopt a more extreme position over time compared to those who did not receive the Court's message.

Model 3 tests the *comprehension-affinity toward the Court hypothesis*. Perceptions of the Court (Mondak 1990, Mondak 1991, Mondak 1994, Mondak and Smithey 1997, Clawson, Kegler, and Waltenberg 2001) should influence its ability to persuade the public. This is tested by the addition of an interaction between reception of the case and the feeling thermometer for the Court. If those that hold the Court in high regard are persuaded by its decisions, then the interactions between receiving *Webster* and *Stanford* and the Court feeling thermometer should statistically significant.

According to the *comprehension-elite alignment hypothesis*, the public's response to receiving Court cases is conditionally to two factors: (1) the broader elite alignment on the issue and (2) the relationship between receiving new information and attitude change. As noted in Chapter 3, there is a two-sided broader elite debate surrounding *Webster* and *Stanford.* The effect of receiving the Court's message and cues provided by other elites may have a linear or non-linear relationship with attitude change.

Model 4 tests the *comprehension-elite alignment hypothesis* using a linear specification for the relationship among receiving the Court's message, the broader elite debate, and attitude change. This is tested by the addition of an interaction between political information and receiving each case. As discussed earlier, political information

is a reasonable proxy for consumption of the elite cues on an issue (Zaller 1992, Price and Zaller 1993). For *Webster* and *Stanford*, the effect of receiving the justices' cue should be greatest among those consuming the least amount of the non-Court, two-sided elite debate. The effect of receiving the cases should decrease as consumption of the broader elite debate increases because the two-sided debate will contain elite cues inconsistent with the one from the justices.

Model 5 tests the *comprehension-elite alignment hypotheses* by specifying a non-linear relationship between receiving elite cues and attitude change. This non-linear relationship is tested by adding two variables to Model 4: quadratic term for political information-squared as well as an interaction between political information-squared and receiving the Court cases. For *Webster* and *Stanford*, I again expect that the greatest effect of receiving cases will be among those consuming the least of the broader elite debate. The effect of receiving the cases should begin to decrease among those with moderate levels of political awareness and continue to fall as consumption of the two-sided debate increases. Reception of the cases should have little impact on those with the highest level of political information because they should not be open to persuasion.

Model 6 tests the *comprehension-party identification hypothesis* for *Webster*. While the independent variables are generally the same as Model 1, there are two important changes. First, partisanship is coded differently. Since I am interested in how partisans respond to the Court given elite cues provided by their own party, I eliminated Independents from Model 1. Democrat is coded 1 if the respondent classifies him/herself as a strong, weak or leaning Democrat and 0 if considering oneself a strong, weak, or leaning Republican. Second, I include an interaction between partisanship and receiving

Webster to test for a conditional relationship between receiving the elite cue provided by the Court and those from party elites.

Since reception is measured separately in both post-*Webster* surveys, it is possible to estimate short- and long-term effects of understanding *Webster*. The expectations are the same for the short- and long-term abortion models—those receiving the Court's message in September should be more likely to move toward its articulated position than individuals unaware of the case. To capture the long-term effects of understanding *Webster,* Models 1 through 6 are re-estimated with one important change, short-term reception that was measured in July is replaced in all models including the interaction terms by long-term reception as measured in September. This allows me to determine whether the short- and long-term effects of receiving *Webster* are different and if any Court effect on abortion attitudes is durable. The death penalty models are only estimated for short-term effects.

I estimated the abortion models using multinomial logistic regression due to the nature of the response options used to create the dependant variables. Although the dependent variable for changing abortion attitudes is generally a scale, the kind of change may not be similar in all cases. For example, changing from one category of response options like an absolute position of never allowing abortion by law to allowing certain exceptions may not be the same kind of change as moving between response options with exceptions. The death penalty models are estimated using an ordered probit because of the ordinal nature of the dependent variable (Green 2001). Since the coefficients of maximum likelihood procedures are not directly interpretable, I calculated changes in the predicted probability of attitude change for substantively important results. For the

interactive models, I also present the 90% confidence intervals for the estimated probability of attitude change to provide context for the certainly of the results. The confidence intervals are calculated across the entire range of the lower-order terms in order to interpret statistical significance across the values of each variable (Braumoeler 2004, Kam and Franzese 2005, Brambor, Clark and Golder 2006).[39]

RESULTS

Tables 4.3 and 4.4 present the regression results for the short- and long-term effect of receiving *Webster* on abortion attitudes.

In Table 4.3, the short-term results for Model 1 indicate that receiving the Court's message in *Webster* is related to attitude change immediately following the case, but do not support the *comprehension hypothesis.* Contrary to expectations, those understanding the Court's message do not become more conservative on abortion. The probability that an individual will become more conservative on abortion falls from .16 among those missing *Webster* to .10 among those receiving it. Focusing on Model 1 in Table 4.4, the effect of understanding *Webster* in the short-term model disappears in the long-run model. Even though the substantive effect of receiving *Webster* in the short-term is small, the results suggest that the Court is generating a slight, immediate backlash among those receiving its message that dissipates over time.

The results in Table 4.3 and 4.4 do not support the *comprehension-polarization* or the *comprehension-affinity for the Court* hypotheses for *Webster*. Whether short or long

[39] The predicted probability of attitude change and the confidence intervals of those estimates are

term, individuals receiving *Webster* are not becoming more extreme in their abortion positions compared to those unaware of the case. There is no joint effect of receiving *Webster* and one's level of support for the Court on attitude change.

As indicated by Table 4.3, the short-term abortion models do not support either specification of the *comprehension-elite alignment hypothesis*. In the long-term models in Table 4.4, however, there appears to both linear and non-linear relationships among receiving *Webster*, consuming the broader elite debate, and attitude change for abortion. Figure 4.1 presents the results for Model 5, which specifies a linear relationship among receiving *Webster*, consumption of non-Court elite cues and attitude change. This figure illustrates the effect of receiving *Webster* and consumption of non-Court elite cues on the probability of a conservative shift in one's abortion attitudes.

The results in Figure 4.1 provide some support for the linear version of the *comprehension-elite alignment hypotheses*. Beginning on the left-hand side of Figure 4.1, the effect of receiving *Webster* appears greatest among those consuming little of the two-sided broader elite debate and it decreases as consumption of non-Court elite cues increases, which is consistent with expectations. As consumption of the broader elite debate goes from moderate to high, the probability that receiving *Webster* leads to a conservative shift in one's abortion policy approaches zero. For those unaware of *Webster*, however, the probability of becoming more conservative on abortion is relatively stable across consumption of elite cues. This suggests that the Court's persuasive effect is greatest among those receiving its decision and consuming little of

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calculated using *Clarify* (King, Tomz, and Wittenberg 2000, Tomz, Wittenberg, and King 2003). Other

the broader two-sided debate; however, for portions of Figure 4.1, there are substantial overlaps in the confidence intervals for receiving and missing *Webster*.

The next issue is whether the effect of receiving *Webster* on abortion attitudes is statistically different from missing the Court's cue. Where the Court's effect appears to be greatest, I have little certainty that individuals receiving *Webster* are different from those missing the cue as the confidence intervals of the estimates overlap. At moderate consumption of non-Court elite cues, there is almost no statistical difference between those receiving and missing *Webster*. However, individuals who receive *Webster* are increasingly different from those missing the justices' elite cue as consumption of the broader elite debate increases. Among those consuming moderate to high amounts of non-Court elite messages, individuals receiving *Webster* are less likely to exhibit a conservative shift in their abortion positions than those unaware of the case. From this perspective, the effect of receiving *Webster* on abortion attitudes is only statistically significant among those consuming the high levels of the elite debate, and the Court is virtually unable to move people toward its articulated position as demonstrated by a conservative shift in one's abortion policy.

Figure 4.2 presents the substantively important results of Model 5, which tests whether there is a non-linear relationship among receiving *Webster*, consumption of the broader elite debate and attitude change. This figure presents the substantive impact of receiving *Webster* and consuming the broader elite debate on an individual's probability of liberalizing on abortion.

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than the variables of interest, control variables are set at their mean.

While it first appears that receiving *Webster* has the greatest effect on those with moderate levels of political awareness, there is no real statistical difference between those receiving and missing the case at this level of consuming the non-Court elite discourse. At the upper and lower ends of the consumption of non-Court elite messages scale, I have little confidence that those receiving *Webster* are different from those missing the case.

The results in Model 6 partially support the *comprehension-party identification hypothesis* for *Webster*. The partisan response to *Webster* is consistent with expectations in the short-term model, but not in the long term-model. Since the *comprehension-party identification hypothesis* contends that partisans will respond to *Webster* consistently with the elite cues of their own party, I am interested in the differences between members of the same party that received and missed the Court's message rather than comparing Republicans to Democrats. The substantive effect of receiving *Webster* and partisanship immediately after the case is presented in Figure 5.

As indicated in Figure 4.3, Democrats liberalize on abortion in the short-term model while Republicans seem to become more conservative. Among Democrats receiving *Webster,* the probability of allowing abortion in more circumstances is .16 compared to .06 among Democrats not receiving the Court's cue. For Republicans, the probability of allowing abortion in more circumstances rises from .11 among those understanding *Webster* to .16 for those missing the Court's cue. This is consistent with the conditional relationship in the *comprehension-party identification hypothesis*, but the overlap in the confidence intervals are important. While I have a good amount of

certainty that the effect of *Webster* on Democrats is statistically significant, I have little confidence in the same results for Republicans.

The long-term effect of receiving *Webster* on members of the same party is different from the short-term effects and do not support the *comprehension-party identification hypothesis.* Figure 4.4 presents the effect of receiving *Webster* on Republicans and Democrats.

Republicans who receive the Court's elite cue exhibit lower probability of adopting a more conservative abortion position than those Republicans missing the Court's cue. I have some confidence that receiving *Webster* decreases the probability of adopting a more conservative abortion attitude from approximately .14 to .05. This runs counter to the *comprehension-party identification hypothesis* that Republicans receiving *Webster* should become more conservative on the abortion issue. In the long-term, Democrats that receive *Webster* are not systematically different those Democrats missing the Court's signal. This is illustrated by the complete overlap in confidence intervals for Democrats in Figure 4.4.

The results for the death penalty models are presented in Table 4.5.

The results in Table 4.5 do not support the *comprehension, comprehension-polarization,* or the *comprehension-affinity for the Court* hypotheses. The results for the linear specification of the *comprehension-elite alignment hypothesis* are worth noting. There appears to be a linear relationship among receiving *Stanford,* consuming the anti-death penalty elite debate, and increased support for the death penalty. Figure 4.5 presents the

substantive effect of receiving *Stanford* and consumption of the broader elite debate on the probability of increased support for the death penalty for Model 5.

Similar to results for *Webster*, the persuasive effect of receiving *Stanford* appears greatest among those consuming little of the broader anti-Court elite debate. Consistent with expectations, the effect of receiving *Stanford* decreases as consumption of the broader elite debate increases. Also, among those missing *Stanford*, the probability of changing support for the death penalty is fairly low and constant across consumption of other elite cues. Inspecting the confidence intervals in Figure 4.5, however, reveals that there is little certainty to the linear relationship among receiving the case, consuming the broader anti-death penalty elite debate, and increased support for the death penalty. Across consumption of non-Court elite cues, those receiving *Stanford* are not statistically different from those missing the case.

DISCUSSION

Under certain conditions, the United States Supreme Court provides an elite cue to the public that influences attitude change. Receiving *Webster* is associated with short-term attitude change. There is some limited evidence of a linear relationship between receiving *Webster*, consumption of the broader elite debate, and long-term attitude change. The analysis also demonstrates that partisans can respond to the case differently by following the elite cues of their own party immediately after the case. As time passes, however, Republicans receiving *Webster* rather than Democrats were less likely to exhibit a conservative shift in their abortion policies. This finding is consistent with

previous work; when there is a Court effect on abortion attitudes, it is modest (e.g. Hoekstra 2003). Similarly, while the effect of receiving *Stanford* is somewhat reduced by consumption of the broader two-sided death penalty elite debate, those receiving the case are not statistically different from those missing the justices' cue.

The results suggest that the public can respond negatively to the Court's articulated position immediately after a case, which fits with the findings of Wlezien and Goggin (1993). The results suggest, albeit at a lower than standard level of statistical significance, the Court potentially has the greatest persuasive effect on attitudes of individuals receiving a case who have low levels of political information. This finding makes sense given that these individuals should be open to persuasion if they receive new information and are not consuming many other elite cues that possibly undermine the Court's message.

The long-term results for Republicans were surprising as they run counter to the position of elites in their party. It is possible that some Republicans are rejecting the position of the Court and their own party as an attack on the status quo. It is also possible that this results from the coding of partisanship. In the models, partisanship is coded from the pre-election wave of the 1988 NES. It is possible that changes in partisanship, as well as other control variables, occurred between the pre-election NES and the September-October wave of the 1989 Pilot.[40]

The lack of results for the effect of receiving *Stanford* on death penalty attitudes compared to the effect of *Webster* on abortion attitudes could be related to case salience. The Court should have its greatest opportunity to shape public opinion when issuing

salient cases that are personally relevant to average Americans (Franklin and Kosaki 1989, Johnson and Martin 1998, Hoekstra 2003). On some measures of case salience such as Epstein and Segal's (2000) front page of the *New York Times* test, *Webster* and *Stanford* are both salient. However, not all cases passing this test are equal in the eyes of the public. As demonstrated in Chapter 3, reception rates for *Webster* were 52% immediately after the case and 49% several months later, which far exceeded *Stanford's* 16% reception rate. This indicates that *Webster* was far more salient to individuals in the sample than *Stanford* was. The difference in reception rates makes sense given the greater media coverage of *Webster* abortion compared to *Stanford* and the death penalty discussed in the previous chapter. It is possible that there is a critical level of reception of cases for the Court to influence public opinion, and that *Webster* exceeded this level while *Stanford* did not. One implication of this is that the Court has a better opportunity to shape public opinion in widely reported cases that the public understands.

The analysis in this chapter may be influenced by several other factors including the measurement of receiving Court cases, the wording of the NES items, and limiting the investigation to two cases more widely reported than average ones.

Comprehension of Court cases as a measure of receiving the justices' cue should be refined in the future because it only captures one aspect of the elite message, the majority opinion. One improvement is to measure whether an individual understands other aspects of the decision including dissenting opinions if they exist. It is possible that individuals understood the dissenting justices in *Webster* or *Stanford* and responded to the liberal tone of their opinions. As I will discuss in Chapter 6, future work should also

[40] A third possibility is panel attrition. There may be important differences between individuals including

investigate whether those getting a Court case wrong are following a mistaken cue. For example, one could become more liberal on abortion because he/she wrongly attributes a strong pro-choice meaning to *Webster*. The current measure of reception does not capture these kinds of effects.

The broad NES questions and responses have several merits including tapping overall abortion and death penalty attitudes, and consistency across time, but they also prevent more nuanced analysis. On abortion, the response options could better distinguish health and discretionary abortions because the public's response to abortion cases can vary on those two dimensions (e.g. Franklin and Kosaki 1989, Wlezien and Goggin 1993, Johnson and Martin 1998). Receiving the Court's message could cause an individual to alter the kinds of abortions they permit while not being captured by the broad NES categories. For example, a change within the kinds of discretionary abortions an individual allows may not be captured by the broad NES question and response options. On the death penalty, receiving *Stanford* could be associated with less support for imposing the death penalty on minors, but this may not necessarily translate into one's overall support for the death penalty.

Focusing on *Webster* and *Stanford* cause generalizability problems and might overestimate the Court's ability to influence public opinion. Most Supreme Court cases are not like *Webster* as it garnered more media coverage than the average case. Even though *Webster* was more salient to individuals in the 1989 Pilot Study, *Stanford* still receives more press coverage than the average case (Slotnick and Segal 1989). On the other hand, this chapter may be a conservative test of the Court's ability to shape public

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partisans who participated in the entire panel compared to dropping out after the first post-*Webster* survey.

opinion. Individuals might be less open to persuasion on personally salient issues that they intensely care about (e.g. Petty and Cacioppo 1986, Fiske and Taylor 1991, Johnson and Martin 1998). Together, this puts the focus on the kinds of cases that comprise a small percentage of the Court activities (Hoekstra 2003). However, focusing on salient cases is worthwhile because if the Court cannot influence public opinion in high-profile cases, then it should be even less likely to do so for those constituting most of its docket.[41] Also, the uneven results of previous research on Court-driven attitude change indicate that additional work in this area is important, even for salient cases. Limiting scholarship to the average case could be overlooking a Court effect where reception of the justices' elite cue should be the greatest.

This chapter began with the proposition that the United States Supreme Court can influence attitude change among individuals who receive its decisions. Given the potential limitations of the analysis, reception of *Webster* still has a measurable effect on abortion attitudes and that the Court-effect is conditionally related to one's partisanship. The effects of *Webster* including the differential partisan response also change over time. The results for *elite alignment hypothesis* are less encouraging as the effect receiving the justices' elite cue and the broader elite alignment do not approach traditionally accepted levels of statistical significance. Thus far, it does not appear that receiving Court cases causes polarization or that the effect of understanding decisions on attitude change varies by one's affinity for the Court. The next chapter continues to test the effect of receiving the Court cases on public opinion by examining the influence of two recent cases, *Van Orden* and *McCreary*, on attitudes toward publicly displaying the Ten Commandments.

[41] To attempt to deal with generalizability problems, the next chapter analyzes the effect of receiving two

CHAPTER 5: THE EFFECT OF RECEIVING VAN ORDEN AND MCCREARY ON ATTITUDES TOWARD PUBLICLY DISPLAYING THE TEN COMMANDMENTS

In this chapter, I continue to test whether the Court is driving public opinion. Specifically, I examine the effect of receiving *Van Orden* and *McCreary* on attitudes toward publicly displaying the Ten Commandments. While the previous chapter used existing survey data to investigate the effect of receiving Court decisions on attitude change, this chapter takes advantage of a quasi-experiment conducted in Austin, Texas. I begin this chapter by discussing the pre- and post-decision surveys used in the 2005 Experiment, which is followed by whether attitudes toward the Texas and Kentucky Ten Commandments displays changed over time. Next, I estimate the effect of receiving *Van Orden* and *McCreary* on attitudes toward the displays. The chapter closes with a discussion of the results.

THE 2005 EXPERIMENT: PRE- AND POST-DECISION SURVEYS

The pre-decision surveys were conducted in various political science classes at the University of Texas-Austin and a large urban community college between June 17 and June 23, 2005. The Court announced *Van Orden* and *McCreary* on Monday, June 27, 2005. Sixty-nine percent of the post-decision surveys were conducted on June 28, 2005 and 31% on June 30, 2005.[42]

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other Court cases on public opinion using a quasi-experimental design.

[42]Ideally, I would like to measure respondent attitudes prior to the Court agreeing to take a case, but practical concerns made this impossible.

After a series of items to measure general political information, demographic characteristics, political attributes, and evaluations of political institutions and actors, I assessed respondent positions on the Ten Commandments displays at issue in each case. I used two items to tap individuals' positions in the pre-and post-decision surveys:

> Do you agree or disagree with the Ten Commandments being displayed on the grounds of the Texas state capitol?
>
> Do you agree or disagree with the Ten Commandments being posted in a courtroom?

The response options for each question were strongly agree, agree, disagree, strongly disagree, and don't know. To avoid priming effects, the subjects did not know the exact purpose of the survey and answered questions about several issues including same sex marriage, affirmative action, and the use of steroids in athletics. These issue items were randomized on four different forms.

The post-decision survey contained three important items: the same issue items for publicly displaying the Ten Commandments, self-reported exposure for each case, and comprehension of each case. The two items assessing respondent positions on the Ten Commandments were asked first. These were followed by the exposure and reception (comprehension) items for *Van Orden*. The final two questions tapped self-reported exposure to and reception of *McCreary*. After the post-decision survey, respondents completed a debriefing form explaining the purpose of the study. At this time, respondents were asked whether they consent to the data being used in this study. After obtaining consent, I matched respondents' pre- and post-decision surveys creating a

panel study with 132 individuals. The pre-and post-decision surveys, participant debriefing form, and IRB approval are located in the Appendix.

ATTITUDES BEFORE AND AFTER *VAN ORDEN* AND *MCCREARY*

Pre-decision support for public displays of the Ten Commandments is lower in the sample than two 2005 CNN/USA Today polls.[43] Compared to the nearly three out of four people supporting similar displays in national samples, 47% of the sample supported the Texas display and 40% agreed with the one from Kentucky before the decisions. While support for the displays is lower in the experimental sample than in national surveys, it is still possible to determine whether there is attitude change before and after the cases.

Attitude change is measured using the same method as Chapter 4: respondent pre-decision levels of support are subtracted from their post-decision levels. This creates a possible seven-point scale that is collapsed into three categories for whether an individual generally becomes more supportive of each display (+1), less supportive (-1), or has not changed his/her support (0). Table 5.1 presents descriptive statistics for attitude change on both displays. The results in Table 5.1 include only individuals who completed the panel study and omits anyone responding "don't know" in the pre-decision or post-decision waves.[44]

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[43] The poll questions were as follows. In February 2005, "As you may know, the US Supreme Court will decide a case regarding whether a monument to the Ten Commandments can be displayed on the grounds of the Texas state capital building. Do you think the US Supreme Court should—or should not—allow the state government to display the monument?" In June 2005, "As you may know, the US Supreme Court will decide a case regarding whether a monument to the Ten Commandments can be displayed on the grounds of state government buildings in Texas and Kentucky. Do you think the US Supreme Court should—or should not—allow the state government to display that monument?"

[44] Eliminating those responding "don't know" removes approximately 10% of respondents from the panel. The proportion of individuals responding "don't know" in either wave of the experiment does not vary

These results provide preliminary evidence that a fair number of respondents exhibited attitude change in both directions on the Ten Commandments displays. Overall, the subjects exhibited greater levels of support for the Texas display than the Kentucky display. Thirty-two percent and 37% of the sample offered different positions following *Van Orden* and *McCreary*, respectively. For both cases, some people shift toward the Court's articulated positions, but others move in the opposite direction. Following *Van Orden*, 17% of the sample became more supportive of the constitutional Texas display while 15% lost support. After *McCreary*, 16% gain support for the unconstitutional Kentucky display compared to 21% moving in the opposite direction. This provides some evidence of attitude change for both cases. Determining whether the Court is driving this change is the subject of the rest of this chapter.

To attribute attitude change to the Court, I am again using reception of the cases as measured by an individual being able to correctly explain the decision in his/her own words. As discussed in Chapter 3, a substantial portion of the sample reported exposure to the cases and some individuals accurately described the case outcomes. Please note that subjects were not provided with specific information about the Court decisions in either the pre- or the post-decision surveys. Seventy-six percent of the sample reported exposure to *Van Orden* and 53% for *McCreary*. Measured by understanding the decisions, reception rates for the decisions are lower than self-reported exposure as 45% correctly explained *Van Orden* and 35% demonstrated a basic knowledge of *McCreary*. The difference in reception rates for *Van Orden* and *McCreary* is statistically significant.

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greatly. The percentages of individuals responding "don't know" in either wave were: pre-*Van Orden*

These results underscore the importance measuring reception by comprehension instead of self-reported exposure. A sizable portion of the sample were willing to claim exposure even though they did not understand the decision or perhaps never actually heard of it. Without understanding the decisions, it is unlikely that the individual received the Court's message.

An early step in determining whether the Court is driving public opinion is to examine attitude change by reception of the cases. This is presented in Table 5.2.

According to the *comprehension hypothesis*, people who understand the cases should shift toward the Court's articulated position. The data partially support this. If one received *Van Orden*, then he/she is more likely to change positions over time compared to an individual that missed the elite cue provided by the justices. In addition, 20% of those who received *Van Orden* had more support for the Texas display after the decision compared to the 16% with less support. Among those not receiving *Van Orden*, individuals exhibiting more support for the Texas display outnumber those losing support, but to a lesser degree than those receiving the case. This suggests that understanding *Van Orden* leads to higher support for the Texas display, but the differences are not striking.

The data in Table 5.2 support the *comprehension hypothesis* for *McCreary*. Twenty-four percent of individuals receiving the justices' message in *McCreary* that the Kentucky display is unconstitutional lost support for it over time while only eight percent increased support for it. Among those missing *McCreary*, there is a relatively even split

(11%), post-*Van Orden* (13%), pre-*McCreary* (8%) and post-*McCreary* (9%).

between gaining and losing support for courthouse display. Individuals receiving *McCreary* had slightly more stable attitudes than those who missed the case.

Taken together, the preliminary analysis demonstrates that receiving *Van Orden* and *McCreary* may influence attitude change. I now turn to regression analysis to determine whether *Van Orden* or *McCreary* systematically influenced these changes.

Similar to the previous chapter, I estimate a series of models test four of the hypotheses outlined in Chapter 2—the *comprehension, comprehension-polarization, comprehension-affinity for the Court, and comprehension elite-alignment hypotheses.* The dependent variables are coded separately for each case and in the same way as above. Each dependent variables measures whether a respondent became more supportive of the display at issue in the case (+1), less supportive (-1), or did not change (0). I created these variables by subtracting the pre-decision positions from post-decision positions on each issue. This creates a possible seven-point scale that I collapsed into a three-point scale for more, less or same level of support for the Ten Commandments display. Individuals responding "don't know" in either wave are excluded from the analysis. The models developed below are estimated separately for the two cases to test the effect of receiving the justices' elite cue on support for each Ten Commandments display.[45]

The independent variables are coded consistently with those in Chapter 4 and included for the same reasons. Although some variables change from model to model, reception of the cases and several control variables are present in each. Reception is a dichotomous variable coded 1 if the person could correctly describe the case and

[45] This approach is similar to the one used in the previous chapter and is subject to the same limitations.

demonstrate reception of the Court's message, 0 otherwise. Political information is an additive scale from zero to nine constructed from a series of open-ended questions about political actors and institutions. The feeling thermometer runs from 0 to 100 and asks subjects to rate how warm or cold they are toward the US Supreme Court. Partisanship is measured by one dummy variable for Republican and one for Democrat with Independent and other the excluded category for both. Ideology is coded in a similar way with a dummy variable for liberal and one for conservative with moderate the excluded category. Religion is coded 1 if the subject self-identifies with a Christian religion, 0 otherwise. Church attendance is coded as a scale ranging from never (0), several times a year (1), monthly (2), weekly (3), to more than weekly (4). One's initial position is included to capture the tendency for respondents to become less extreme over time in panel studies (Hoekstra 2003 & 2000).

Model 1 tests the *comprehension hypothesis*. According to the *comprehension hypothesis*, those who receive the cases will be more likely to move toward the Court's position. This tests whether the Court is leading changes in public opinion among those receiving its elite cue. The expectations for reception are different for *Van Orden* and *McCreary* because of the case outcomes. If the Court drives attitude change, reception of *Van Orden* should be positive and significant, as people should become more accepting of the approved Texas display. Receiving *McCreary*, on the other hand, should be negative and significant because the Court decided the Kentucky display was unconstitutional.

Model 2 tests the *comprehension-polarization hypothesis* by adding a multiplicative interaction term between reception and one's initial position to Model 1. If

polarization occurs among those who understand the case, the interaction between reception and one's initial position should be positive and significant. This indicates that people who understood the cases adopt a more extreme position following the cases compared to those who did not receive the Court's message.

Model 3 tests the *comprehension-affinity toward the Court hypothesis*. If those who hold the Court in high regard are persuaded by its decisions, then the interaction between receiving *Van Orden* and the Court feeling thermometer should be positive and significant while it should be negative and significant for *McCreary.*

Models 4 tests the linear specification of the *comprehension-elite alignment hypothesis* by adding an interaction between receiving the case and consumption of elite cues to Model 1. Consumption of the broader elite debate is once again measured by a proxy, general political information. If the message provided by the Court in *Van Orden* amplifies the slightly more pro-display orientation of other elites in a linear fashion, the effect of receiving the case should increase with additional consumption of the broader elite debate. If the elite message provided by the Court in *McCreary* is offsetting the broader debate leaning toward favoring the display, then the effect of receiving *McCreary* should decrease as consumption of non-Court elite messages increases.

Model 5 tests the non-linear specification of the *comprehension-elite alignment hypothesis* by adding two variables to Model 4: political information-squared and an interaction between political information-squared and receiving the cases. If there is a non-linear relationship among receiving the Court's pro-display decision in *Van Orden*, the pro-display broader elite debate, and attitude change, I expect that the effect of receiving the case will increase as consumption of elite cues reaches moderate levels and

begin to decrease among those consuming the most non-Court elite cues. For *McCreary*, I expect that the effect of receiving the anti-display decision will be the greatest among those with the least information and decrease as consumption of the pro-display elite debate at odds with the Court decision increases. The effect of receiving *McCreary* should diminish rapidly as one's consumption of elite cues moves from moderate to high as an increasing amount of countervailing messages become available to individuals unlikely to be persuaded by new information.

There may be important consequences of *Van Orden* originating in Austin, Texas and conducting the quasi-experiment in the same city. Previous research demonstrates that cases relevant to local populations can have a larger effect on attitude change than geographically remote cases (Hoekstra and Segal 1996, Hoekstra 2003). It is possible that receiving the Court's elite cue in a local case like *Van Orden* could be influencing how an individual views a similar issue from a geographically distant area like Kentucky. Individuals could be following the elite cue provided by the justices in the more salient, local case when considering the Kentucky display. This leads to a hypothesis for this chapter that is unique to the 2005 Experiment, the *comprehension-geographic proximity hypothesis*.

> *The Comprehension-Geographic Proximity Hypothesis*: Individuals receiving the pro-display Court message in *Van Orden* will become more supportive of the Kentucky display because *Van Orden* is the locally relevant, more salient case.

The *comprehension-geographic location hypothesis* is tested in Models 6. The dependent variable for Model 6 is the same as above, change in support for the Kentucky

display over time. In Model 6, the independent variables are the same as Model 1 plus an additional variable--reception of *Van Orden*. If receiving the Court's message from the local case is influencing attitudes toward the geographically remote Kentucky display, then the coefficient on receiving *Van Orden* should be positive and significant. This indicates that receiving the pro-display message sent by the majority of the Court in *Van Orden* is related to increased support for the Kentucky display.

It is also possible that the effect of receiving *Van Orden* goes beyond influencing attitudes toward the Kentucky display. Receiving the local case could overpower the effect of receiving the geographically distant case. This suggests that there is a conditional relationship between the two cases. For individuals receiving both cases, the effect of the local case *Van Orden* should be greater than that of the geographically distant *McCreary*. This is tested in Model 7 by including variable for receiving both cases, which is an interaction between receiving *Van Orden* and *McCreary*.

Due to the ordinal nature of the dependent variable, I estimate the models using a maximum likelihood procedure, ordered probit (Green 2001). I also present the predicted probability of attitude change with 90% confidence intervals for substantively important results.[46]

RESULTS

The regression results for Models 1 through 5 testing the *comprehension*, *comprehension-polarization*, *comprehension-affinity for the Court*, and *comprehension-elite alignment hypotheses* are presented in Table 5.3. Positive coefficients indicate more

support for the display at issue in the case after the decision and negative coefficient indicate less support.

The results for Model 1 partially support the *comprehension hypothesis*. While reception of *Van Orden* is not related attitude change on the Texas display in Model 1, the effect of receiving *McCreary* is significant and in the expected direction. Those receiving *McCreary* are more than twice as likely to exhibit decreased support for the unconstitutional Kentucky display. The probability of this type of change is .29 among those receiving the justices' elite cue and drops to .12 for those who miss the Court case.

Model 2 does not support the *comprehension-polarization hypothesis*, but the results are worth noting. If the Court decisions caused polarization, the interaction between receiving the cases and one's initial position would have been positive and significant. Contrary to expectations, this interaction is negative and significant for *Van Orden*. The substantive effect of receiving *Van Orden* and one's initial position on attitude change are presented in Figures 5.1 and 5.2.

Figure 5.1 illustrates that individuals who initially strongly agreed with the Texas display and received *Van Orden* lose support for the approved display. Those who strongly agreed with the Texas display in the pre-decision survey and received *Van Orden* have a .73 probability of losing support for the display after the case. The probability of a similar change among those missing the case is only .20. As the confidence intervals do not overlap, this result is statistically significant. Among those

[46] The probabilities are calculated using *Clarify*. Except for the variables of interest, the independent

with more moderate initial positions, individuals who receive the case are not different from those missing the case. Since the moderation effect is among those with the extreme position of strongly agreeing with the Texas display who received *Van Orden*, the tendency for those become less extreme over time is more likely from receiving the Court's message than a general regression effect common to panel studies.

Looking at Figure 5.2, if one initially strongly disagreed with the Texas display, the probability of increased support is .61 among those receiving the case and .39 for those missing it. However, this result does not appear to be statistically significant as there is a fair amount of overlap in the confidence intervals for these estimates. In addition, those receiving the case with moderate initial positions do not appear to have a systematically different response than individuals missing *Van Orden.*

The results for Model 3 do not support the *comprehension-affinity for the Court hypothesis*. Those who hold the Court in high regard and received the cases do not move toward the Court's positions in either case, as the interaction terms do not approach accepted levels of statistical significance.

The results for Model 4 seem to partially support the *comprehension-elite alignment hypothesis* as there appears to be a linear relationship among receiving *Van Orden*, consumption of elite cues, and attitude change, but not one for *McCreary*. The effect of understanding *Van Orden* and consumption of the broader elite debate on attitude change are presented in Figures 5.3 and 5.4.

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variables are set at their means (King, Tomz, and Wittenberg 2000, Tomz, Wittinberg, and King 2003).

Moving from left to right in Figure 5.3, individuals who receive *Van Orden* are less likely to lose support for the Texas display as political information increases. The results also suggest that those who miss *Van Orden* do not exhibit dramatic signs of attitude change. While these general patterns are interesting, it does not appear as if individuals who receive the case are statistically different from those missing it. At each level of political information, there is an overlap in the confidence intervals.

While the results do not achieve traditionally accepted levels of significance, I am more confident in the results for those consuming little information where the overlap in confidence intervals is markedly less than other points in the figure (Kam and Frazese 2007). Among those consuming the least non-Court elite cues, I have some confidence that individuals receiving *Van Orden* are more likely to lose support for the Texas display than individuals missing the case—albeit not at the 90% level. Once consumption of non-Court elite cues reaches moderate levels and above, the somewhat certain differences between those receiving and missing the case disappear.

Figure 5.4 presents the effect of receiving *Van Orden* on gaining support for the Texas display. In general, those who receive *Van Orden* appear to move toward the Court's articulated position as consumption of the broader elite debate increases. Similar to the previous figure, the effect of receiving the case is never statistically distinct from that of missing it. However, the results approach statistical significance among those with little political information. Again, individuals receiving the case who consume little of the broader elite debate have a lower probability of moving to the Court's position than those missing *Van Orden.* Among those with moderate to high consumption of the

broader elite debate, the effect of receiving *Van Orden* is clearly not statistically distinguishable from that of missing the case.

The results in Model 5 do not support the non-linear specification of the *comprehension-elite alignment hypothesis* for either *Van Orden* or *McCreary*.

The regression results for the *comprehension-geographic proximity hypothesis* are presented in Table 5.4.

The results in Model 6 do not support the *comprehension-geographic proximity hypothesis* as receiving *Van Orden* does not influence attitudes on the Kentucky display. These results suggest that receiving *McCreary* is still associated with decreased support for the Kentucky display even when controlling for the geographically proximate case with a conflicting outcome. While the substantive effect of receiving *McCreary* is smaller after including reception of *Van Orden* in the model, those who understand the case have a higher probability of losing support for the unconstitutional display (.16) than those missing the justices' cue (.07).

The results for Model 7 suggest a conditional relationship between receiving both cases and support for the Kentucky courthouse display. The substantive effect of receiving both cases is presented in Figure 5.5.

The results indicate that individuals receiving both cases lost support for the Kentucky display, which is contrary to my expectation that receiving the local case would overpower the effect of the geographically distant case. However, the large confidence

interval on the estimated probability of losing support among individuals receiving both cases means that I cannot be very certain of this result.

DISCUSSION

Like the previous chapter, the Supreme Court sometimes provides an elite cue to the public that can lead to attitude change among those receiving the message. Also like the previous chapter, the results are modest and inconsistent across the models.

The results for *the comprehension hypothesis* are straightforward. Receiving *Van Orden* did not systematically influence attitudes on the Texas display. Individuals in the 2005 Experiment, however, had a "positive response" to *McCreary*. After the Court ruled that the Kentucky display was unconstitutional, individuals receiving this message lost support for the rebuked display. Reception of *McCreary* doubles the probability of moving in the same direction as the Court's decision, which demonstrates the Court can legitimate certain policy positions under some conditions. This raises a question. Why did individuals positively respond to *McCreary*, but not *Van Orden*?

The different results for the two cases might be influenced by the regional nature of the sample. Those from Austin could be more interested in *Van Orden* because it originated in the city where most of the sample resides compared to the more distant Kentucky case. The case with geographic proximity could lead to more interest and well-elaborated ideas, and consequently a better ability to generate counter-arguments. This should lead to higher resistance to new information (Hoekstra 2003). Since individuals may be less interested in the Kentucky case, they could be more open to persuasion. The higher reception rate for *Van Orden* supports that it was more interesting to the sample

and individuals were more likely to learn about the closer case than the distant one. However, making claims about interest in the issue is difficult because the data do not include clear measures of interest in the cases such as how important the issues are to the respondents.

Receiving *Van Orden* and *McCreary* did not cause polarization on publicly displaying the Ten Commandments. The effect of understanding *Van Orden* on support for the Court-approved Texas display is conditionally related to one's initial position, but not as I expected. Receiving *Van Orden* is associated with attitude moderation over time on the Texas display for those initially strongly agreeing with the monument. This is the clearest findings for any of the conditional models. It is also surprising. Individuals who initially strongly agreed with the Texas display lost support for it after the Court *approved* the display. It is possible that some individuals who initially held an extreme position were being educated by new information causing them to question their original belief. For example, individuals receiving the pro-display message in *Van Orden* may have also received and been influenced by the anti-display messages from dissenting justices or other sources. As noted elsewhere in this project, it is not possible to test this directly using the 2005 Experiment because the data do not explicitly track attention to dissenting opinions.

The effect of receiving the justices' elite cue does not vary by one's affinity for the Court. As noted in Chapter 4, this may be a product of the survey instrument. Like the 1989 Pilot, a feeling thermometer measures affinity for the Court. Consequently, this measure suffers from the same shortcomings as the one used in Chapter 4.

The results for the *comprehension-elite alignment hypotheses* and *Van Orden* are less than stellar as they only approach statistical significance. However, I have some certainty in the results for those with low amounts of political information. At lower levels of general knowledge, there is far less overlap in the estimated confidence intervals (Kam and Franzese 2007). Still, the results are surprising. That individuals receiving the Court's message and little of the broader elite debate have a higher probability of attitude change in part of the analysis was expected. These individuals should be open to persuasion if they receive new information. I expected that these individuals would move toward the Court's position because they are in effect only receiving the new information provided by the justices and are missing the broader elite debate. This was not the case; receiving *Van Orden* did not legitimate the Court's articulated position among those consuming little of the broader elite debate. If anything, the results suggest a possible backlash against the Court's position, but such a "negative" reaction is not clearly demonstrated by the data.

From this perspective, it is also surprising the receiving *McCreary* did not influence support for the Kentucky display among those consuming little of the broader elite debate. Those with little political information who actually receive the Court's message should also receive the fewest cues from other elites. This should increase the effect of receiving *McCreary* among those with less political information because they are exposed to fewer countervailing messages from the slightly leaning pro-display elite debate.

It is possible that the different responses to the two cases—the legitimating effect of receiving *McCreary* and the suggested backlash against *Van Orden* among those with

little political information—are caused by individuals responding to different aspects of each decision. Individuals may be responding to the portions of the liberally toned opinions written by the dissenting justices in *Van Orden* and the majority in *McCreary*. However, as discussed in Chapters 3 and 4, the measurement of receiving the justices' cues is only sensitive to understanding the majority position. Consequently, it is not possible to estimate whether individuals are responding to the dissenting justices. This underscores the importance of developing a more nuanced measure of receiving the Court's message in the future, which is discussed further in Chapter 6.

More generally, a few factors limit the results of this analysis including the nature of the sample and the question wording of the survey instrument. The analysis relies on a small sample drawn from college students in the Austin area. While the summary statistics in the appendix indicate that the sample has some diversity, it is not representative of the national adult population. Although the courses that provided the sample did not cover the cases, it is possible that respondents discussed the cases outside of class because of local interest in *Van Orden*. However, I do not think this is a major problem because I am interested in the effect of receiving the Court's message regardless of the source of that knowledge. Using more representative samples ranging from a sample of adults drawn from the general population of a city to the ideal of a representative sample of the national adult population, such as the one used in the previous chapter, would increase the generalizability of the results in this chapter.

The question wording of the survey instrument poses some potential problems for the analysis. Specifically, the items used to create the dependent variables tapping respondent positions on publicly displaying the Ten Commandments may be overly

detailed and possibly cause priming effects. The questions included references not only to the specific location of the Ten Commandment displays on government property and the questions related to *Van Orden* also include references to the Texas State Capitol. This may prime respondents to think about the location of the displays when evaluating each one at the expense of isolating the effect of receiving the justices' cues. In the future, general questions for an individual's issue positions could avoid these problems. Because these were the only forms of the questions used in the 2005 Experiment, I am unsure of the actual effect of question wording, but feel it is worth noting the potential problems.

Overall, the results of this chapter are mixed. The effect of *McCreary* on attitudes toward the Kentucky display appears to be systematic, but small. The effect of *Van Orden* on attitudes about the Texas display is less certain. Combined with the analysis in the previous chapters, there are distinct theoretical and some empirical benefits to measuring the effect of receiving the Court's message through comprehension of the decisions.

In the final chapter of this dissertation, I conclude my discussion of whether the Court is influencing public opinion by exploring some of the broader aspects of the research project and prospects for future research.

Chapter 6: Conclusion

This project began with several assertions. First, the U.S. Supreme Court provides an elite cue to the public that can induce attitude change. Second, in order to understand this process better, it is necessary to properly assess case awareness by measuring reception of decisions. Third, Supreme Court cases do not reach the public in isolation, but rather are accompanied by a broader elite debate that influences attitude change. Taken together, the results suggest that reception of cases is a conceptual and empirical improvement for attributing attitude change to the Court, but the effect of receiving Court decisions on public opinion is mixed and uneven across the cases. In addition, when there is a Court effect, it is usually modest. There is a complex relationship between the Court and public opinion, which includes how the public responds to Court decisions. The results in the preceding chapters shed some light on this complex relationship, but also raise several questions and avenues of future research.

In order for the Court to influence public opinion, individuals must be aware of its cases. Reception of cases has theoretical and empirical advantages over other methods of measuring case awareness and attributing attitude change to the Court. The conceptual improvement is derived from the differences between being exposed to new information and understanding it. These are related activities, but not identical ones. The empirical differences manifest themselves in several ways including over reporting. Measuring reception by comprehension of cases reduces the empirical problems associated other methods of assessing case awareness. Also, the single best predictor of receiving *Webster, Stanford, Van Orden,* and *McCreary* is one's general political knowledge. Individual and domain specific information such as ideology and having an extreme

initial are sometimes related to case reception, but lack a systematic pattern. The implication of these findings is that public law scholars need consider one's general level of political information when explaining case awareness. Other variables, including those previously thought of as critical to this process like media consumption, do not perform as well as some scholars argue.

The results of Chapters 4 and 5 illustrate the complex nature of examining the Court as an elite role player in attitude change. Reception of cases is sometimes related to attitude change; however, few consistent patterns emerge from the analysis except that the Court's influence on public opinion is modest when it exists. Situating the Court within the broader elite debate (as defined by media reporting on political elites) yields some useful information at times and is less instructive at others. The results raise some questions about the research design used in this study and also point to some directions for future research.

An important place to begin is the key variable of receiving cases. Throughout this study, reception is measured the same way. First, individuals must demonstrate they were exposed to a Court case. Second, they must be able to put that case in their own words. While an improvement of previous methods, this approach creates a dichotomy that is limited in several respects. As noted earlier, the open-ended item for comprehension of a case only measures whether individuals understood the winning coalition of judges. While sometimes unanimous, Court cases can have majority or plurality opinions and often dissenting opinions; such was the case in this study. Reception, as used in this project, does not measure whether an individual understood the positions of other justices. It is possible that receiving elite cues from dissenting justices

is contributing to the mixed findings. In the future, it would be useful to determine whether this is actually happening. One way to do this is to include another layer of questions prompting individuals for the winning and losing coalitions when they exist.

Placing the Court's message within the broader elite debate is an important part of this analysis. Measuring the broader elite debate by counting the number of elites quoted on each side of an issue in news reports raises some potential problems. The measure is a blunt instrument. It does not account for the tone of coverage. I do not assess whether the elites quoted were presented in a positive or negative manner. The tone of coverage may lead to a number of media effects on attitudes (e.g. Iyengar and Kinder 1987). Also, my coding of the broader elite debate treats every elite equally. This has at least two consequences. First, the public does not evaluate all elites equally. Some may have more legitimacy and credibility leading to a greater effect on an individual's evaluation of new information. Second, I did not measure how much attention each elite received outside of whether they were quoted. An elite with a one sentence quote is treated the same as one with lengthier quotes or writing an entire editorial. Last, the content analysis was conducted entirely by the author and inter-coder reliability statistics are not available. These shortcoming should be addressed into future assessments of the broader elite debate.

A related potential criticism is that I do not isolate the source of one's knowledge about the Court cases. While I control for some variance in media consumption, outside of measuring whether one consumes television, radio, or internet news, I do not assess the exact news source. Some individuals may learn about cases from sources with known ideological or editorial slants such as *The Daily Show with Jon Stewart* and Rush

Limbaugh. Even though media consumption did not generally have a systematic effect on receiving a case, the source of information about the Court may be relevant. Individuals may correctly understand a case, but receive the information from a source critical or supportive of the decision. For example, if two individuals frequently listen to Rush Limbaugh or *Air America Radio*, they may both understand a Court case because it is a topic on talk radio. However, they may evaluate the credibility of the decision based on the vastly different editorial comments on the case.

The analysis presented in this project treated religion and religiosity as control variables. The results for these variables in many of the models are robust and consistent. Religion and religiosity should receive more attention in the process of Court-driven attitude change. This is particularly important for the issues of *Webster*, *Stanford*, *Van Orden* and *McCreary* because they are laden with religious issues like abortion, the death penalty, and publicly displaying the Ten Commandments.

Future research can extend the research design to cases of different salience levels, additional issue areas, and alignments of the justices. Previous research, including this project, has demonstrated that the Court can influence public opinion when ruling on salient issues. Each case in this analysis is salient cases on two different levels: they appeared on the front page of the *New York Times* and deal with a personal issue, religion. The opportunity for the Court to shape public opinion is potentially greatest when dealing with personal issues like religion (Franklin and Kosaki 1989, Johnson and Martin 1998). Again, as pointed out by Hoekstra (2003), studying salient cases could over-estimate the Court's ability to shape public opinion because these comprise a minority of the docket. However, even if these few cases lead public opinion, the Court

could still have an important impact on public opinion. Salient cases potentially have the greatest impact on public opinion due to higher rates of receiving the elite cue provided by the Court.

It would also be advantageous to include cases about issues less salient to Americans. Most Supreme Court cases do not deal with hot button issues like abortion, the death penalty, and religion in the public square. These are controversial issues that the public may have well-elaborated ideas that are resistant to change. The bulk of the Court's docket deals with issues that are less controversial and salient to the public. It is possible that the effect of receiving Court decisions on less salient issues is greater as the public is probably less wedded to their preexisting beliefs.

The cases in this study feature closely divided Court including *Webster*'s plurality decision. It would be useful to compare reception of unanimous and divided Court opinions to test whether a one-sided message from the Court has a different effect on public opinion than two-sided decisions like *Van Orden* and *McCreary*. It is possible that the effect of Court decisions varies based on whether the Court speaks with one unified voice or is closely divided. The 5-4 voting alignments in *Stanford, Van Orden, McCreary,* and the more confusing *Webster*, provide the public with two different sets of cues from the justices—one set of cues from the majority and another from the dissenters. I do not have leverage on whether the alignment of justices is related to the effect of receiving the Court's cues because of the nature of the cases in the analysis. In the future, it will be useful to target cases with different winning coalitions, but that can be difficult because the voting alignment of justices is not known when pre-decision samples are collected. In some senses, the researcher is captive to the uncertain outcome of cases and

it may not be possible to correctly identify unanimous and non-unanimous cases, or particular voting alignments of the Court when collecting pre-decision attitudes under real world conditions. Due to this, experimental designs would be particularly useful for future research because they allow the researcher to manipulate the nature and size of the winning coalition.

This research could explore whether receiving a case in one issue area could be influencing attitudes on related topics. For example, does understanding that *Lawrence and Garner v. Texas* (2003)[47] overturned same-sex, consensual, adult sodomy influence public opinion on a related issue like same-sex marriage? Also, it would be interesting to investigate whether receiving a case like *Van Orden* influences attitudes toward other public expressions of religion such as the debate over the presence of "under God" in the Pledge of Allegiance. While the *comprehension-geographic proximity hypothesis* is a step in the right direction by investigating the effect of receiving *Van Orden* on attitudes toward the Kentucky display, the presence of *McCreary* complicates the analysis as there is a relevant, contemporaneous case in the same issue area to compete with *Van Orden*.

The approach employed in this study hinged on people remembering the elite cue provided by the Court. An alternative theory of attitude change, on-line information processing, could explain why some individuals exhibited attitude change that was not related to receiving the cases. With an on-line process, individuals create an overall evaluation of abortion, the death penalty, or publicly displaying the Ten Commandments over time including *Webster, Stanford, Van Orden* or *McCreary* if they received the Court's messages. Individuals may then update their beliefs without remembering

[47] 539 U.S. 558

receiving new information or the source of it (e.g. Hastie and Park 1986, Wyer and Shrull 1986, Lodge, McGraw and Stroh 1989). From this perspective, an individual could exhibit signs of attitude change without demonstrating reception of the Court cases. While this kind of running tally may certainly be at work here, reception of the Court's elite cue, under certain conditions, does matter for individuals in this study. The results demonstrate that understanding and remembering Court cases is related to attitude change.

Many questions remain about whether and how the Court influences public opinion. This project advances our knowledge of Court-driven attitude change by using reception to measure awareness of cases and situating the decisions within the broader elite debate. Although these two steps are important, as noted above, many questions remain and there are numerous possibilities for future research. By combining public law and American politics research, this project is useful to scholars in both fields. Overall, the results demonstrate that receiving Court decisions is sometimes related to attitude change on the issues associated with the cases. Given the mixed findings and questions noted above, there is tremendous potential for future research to shed more light on whether and how the Court influences public opinion.

Figures and Tables

Figure 2.1. The Effect of Receiving Court Cases Given Different Alignments of Non Court Elites, Linear Relationship

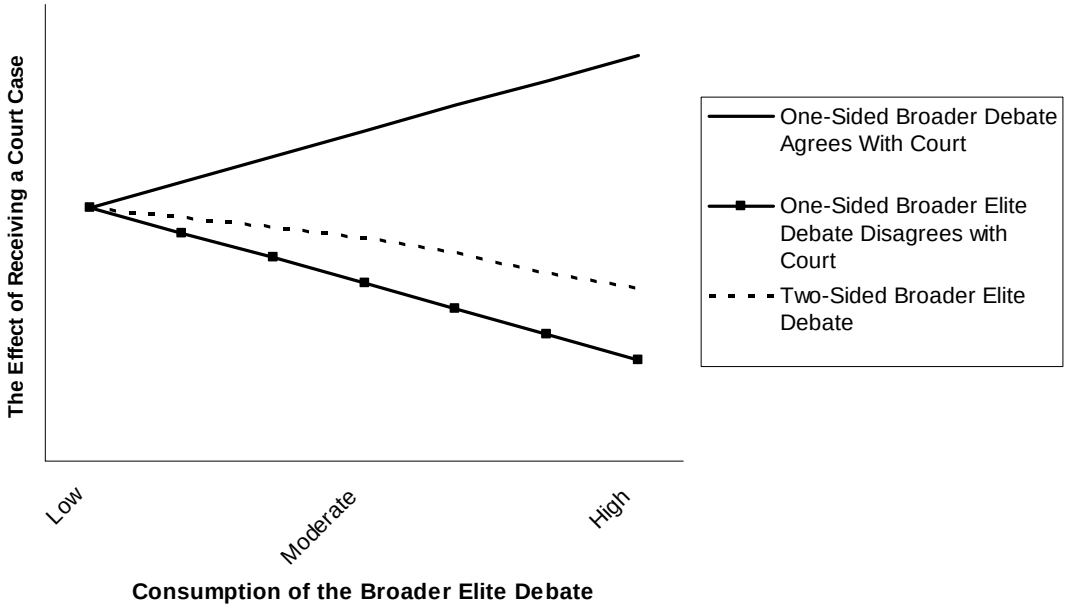


Figure 2.2. The Effect of Receiving Court Cases Given Different Alignments of Non-Court Elites, Non-Linear Relationship

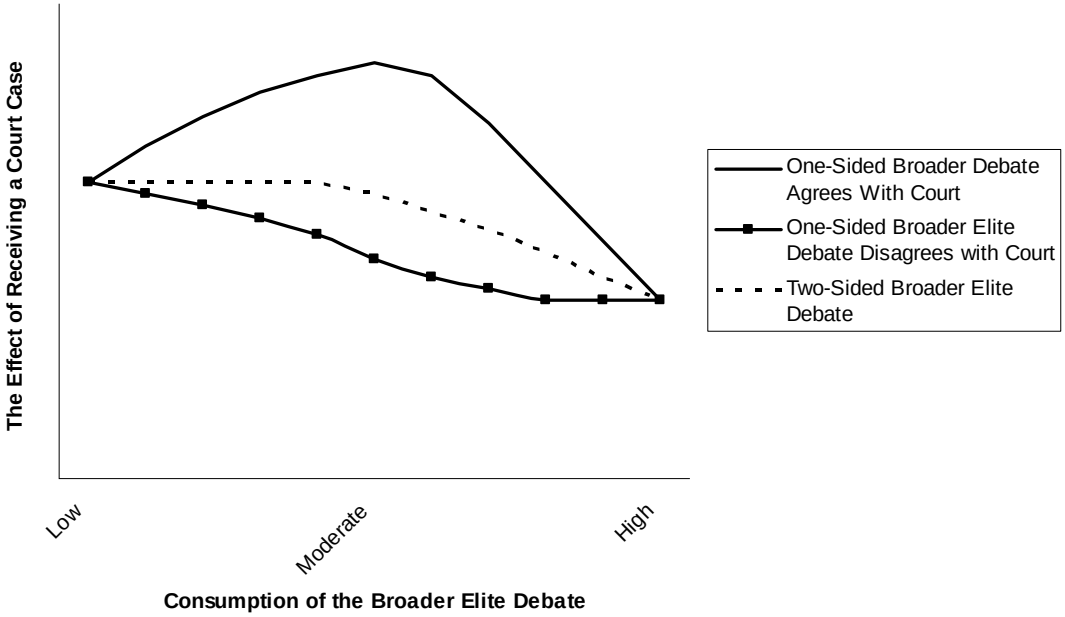


Table 3.1. Frequency of Stories and Average Number of Elites Quoted by Media Source in the Year Prior to *Webster, Stanford, Van Orden,* and *McCreary*

Abortion and Webster

	Number of Stories	Avg. Pro-Choice Elites	Avg. Pro-Life Elites
Newspaper			
New York Times	52	5.5	5
National Network News			
NBC	2	4.5	11
CBS	2	3	4.5
ABC	4	4	5.2
Avg. # of Elites Quoted (All Stories)		5.1	5.1
Total # of Stories	60	Diff. of Means	.03

The Death Penalty and Stanford or Wilkins

	Number of Stories	Avg. Pro-Death Penalty Elites	Avg. Anti-Death Penalty Elites
Newspaper			
New York Times	9	4.2	6.1
National Network News			
NBC	2	3	1.5
CBS	2	3	1.5
ABC	4	3	.18
Avg. # of Elites Quoted (All Stories)		3.6	4
Total # of Stories	17	Diff. of Means	.36

Publicly Displaying the Ten Commandments and Van Orden or McCreary

	Number of Stories	Avg. Pro-Display Elites	Avg. Anti-Display Elites
Newspaper			
New York Times	13	3.3	3
Austin American Statesman	8	3.8	2.6
National Network News			
NBC	4	4.5	2.3
CBS	4	1.8	1.2
ABC	6	3.0	2.0
Avg. # of Elites Quoted (All Stories)		3.3	2.5
Total # of Stories	35	Diff. of Means	.86**

* significant at 10%; ** significant at 5%; *** significant at 1% (two-tailed)

Table 3.2. Coding of NES Categories for Receiving (Understanding) *Webster*

Categories of Respondent Answers Coded As Receiving *Webster*	Categories of Respondent Answers Coded As Missing *Webster*
Allowed abortion to continue, trying to change laws on abortion, middle of the road, a difficult decision to follow or understand	Respondent did not report exposure to Webster
Against abortion, anti-abortion, against women's rights, basically pro-life, limited abortion	Decided for abortion, let women decide for themselves, other incorrect
Upheld Roe v. Wade, Didn't overturn Roe v. Wade	Made abortion illegal, outlawed abortion, overturned Roe v. Wade
Court still making up its mind, Court hasn't really decided yet, Court may overturn Roe v. Wade, holding off until next term	Don't think [the Court has released the decision]
Left it up to the states, gave it back to the states, let the local level decide	I used to know but I forgot
Mention of: Missouri case, Missouri law, Webster, Webster case	Other response, not classified
Specifics mentioned: ban on public funding or public facilities to perform abortions, requirements for viability testing of the fetus, parental consent for abortions, any mention of Supreme Court Justices by name, other specific details reflecting extensive knowledge	No, Can't remember Missing, no answer, unintelligible, no ascertained No wave 2

Table 3.3. Coding of NES Categories for Receiving (Understanding) *Stanford*

Categories of Respondent Answers Coded as Receiving *Stanford*	Categories of Respondent Answers Coded as Missing *Stanford*
In favor of the death penalty, supported death penalty	Respondent did not report exposure to *Stanford*
Left it up to the states, gave it back to the states, let local level decide	Against death penalty, banned death penalty, made death penalty illegal, other incorrect
Can execute minors, teens, lowered age, mention of minors	Hasn't decided yet, didn't make any decision
Can execute retarded, mentally impaired, mention of retarded	Reinstated death penalty
Mention minors and retarded, other specific details reflecting extensive knowledge	I used to know but I forgot
	Other response, not classified
	No, Can't remember
	Missing, no answer, unintelligible, no ascertained
	No wave 2

Table 3.4. Exposure and Reception Rates for *Webster, Stanford, Van Orden and McCreary*

	Webster: Short-Term	*Webster*: Long-Term	*Stanford*	*Van Orden*	*McCreary*
% Reporting Exposure to the Case	80%	69%	34%	76%	53%
% Receiving the Case by Demonstrating Comprehension	52%	49%	16%	45%	35%

Table 3.5. Logit Results for Individual-Level Characteristics Related to Receiving Court Cases

	Webster Short Term	*Webster* Long Term	*Stanford*	*Van Orden*	*McCreary*
Political Information	0.47***	0.60***	0.36***	0.55***	0.63***
	(0.08)	(0.11)	(0.11)	(0.15)	(0.16)
Education	0.33***	0.22**	0.06		
	(0.08)	(0.10)	(0.09)		
T.V. News	-0.00	-0.07	0.15**	-0.09	-0.11
	(0.05)	(0.06)	(0.07)	(0.14)	(0.14)
Print News	-0.15	-0.08	0.15	-0.04	0.00
	(0.15)	(0.18)	(0.19)	(0.11)	(0.10)
Internet News				-0.12	0.02
				(0.10)	(0.10)
Talk Politics	0.11**	0.07	0.08		
	(0.05)	(0.06)	(0.06)		
SCOTUS Therm.	-0.01	-0.00	0.01	0.00	-0.01
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Extreme Initial Position	0.52**	0.57**	-0.61*	-0.52	-0.56
	(0.23)	(0.28)	(0.32)	(0.75)	(0.84)
Female	0.18	0.08	-0.47	0.25	1.18**
	(0.24)	(0.29)	(0.30)	(0.53)	(0.57)
White	0.02	0.40	0.35	1.04*	0.72
	(0.42)	(0.57)	(0.69)	(0.56)	(0.60)
Age	0.01	-0.02*	0.01		
	(0.01)	(0.01)	(0.01)		
Liberal	-0.08	0.10	0.14	-0.25	0.19
	(0.45)	(0.57)	(0.67)	(0.64)	(0.64)
Conservative	-0.01	-0.23	-0.03	2.42***	1.20
	(0.41)	(0.53)	(0.65)	(0.94)	(0.83)
Republican	-0.16	0.04	0.30	-1.28	-0.40
	(0.44)	(0.52)	(0.65)	(0.82)	(0.79)
Democrat	-0.39	-0.20	0.27	-0.40	0.67
	(0.45)	(0.54)	(0.65)	(0.59)	(0.62)
Catholic	0.25	-0.04	-0.14		
	(0.27)	(0.34)	(0.33)		
Christian				-0.06	0.58
				(0.56)	(0.55)
Church Attendance	0.12	0.16*	-0.02	0.03	0.01
	(0.08)	(0.10)	(0.10)	(0.23)	(0.24)
Constant	-2.52***	-2.21*	-4.81***	-2.53*	-4.65***
	(0.89)	(1.13)	(1.29)	(1.35)	(1.50)
Observations	464	314	406	111	113
log likelihood	-248.480	-164.681	-166.198	-57.493	-56.016
PseudoR2	0.217	0.238	0.163	0.247	0.231

Standard errors in parentheses, * significant at 10%; ** significant at 5%; *** significant at 1% (two-tailed)

Figure 3.1. The Effect of Political Information on Case *Reception*

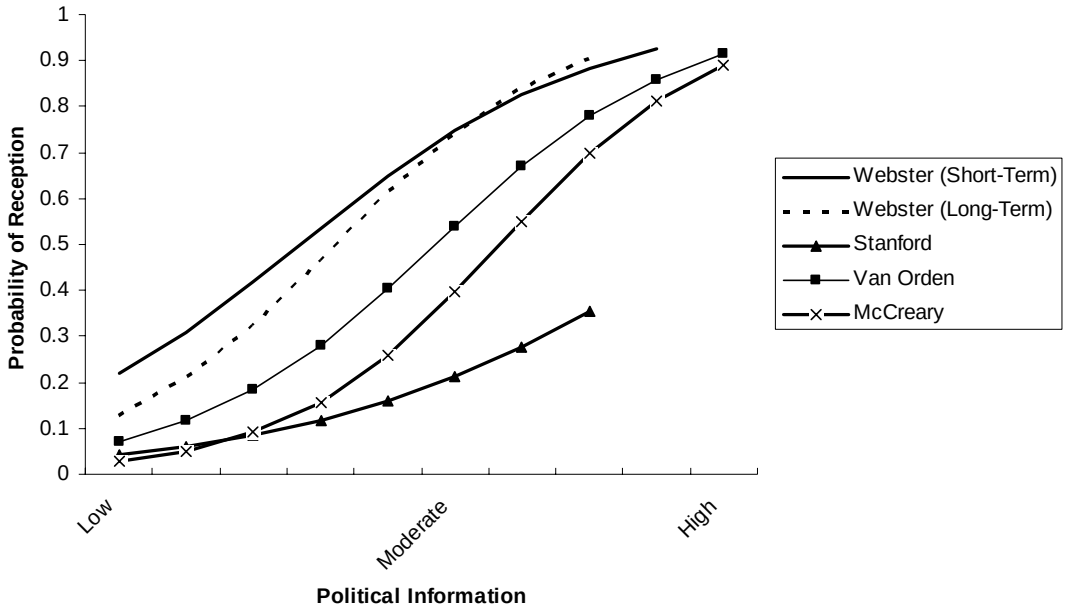


Figure 3.2. The Effect of Education on Receiving *Webster*

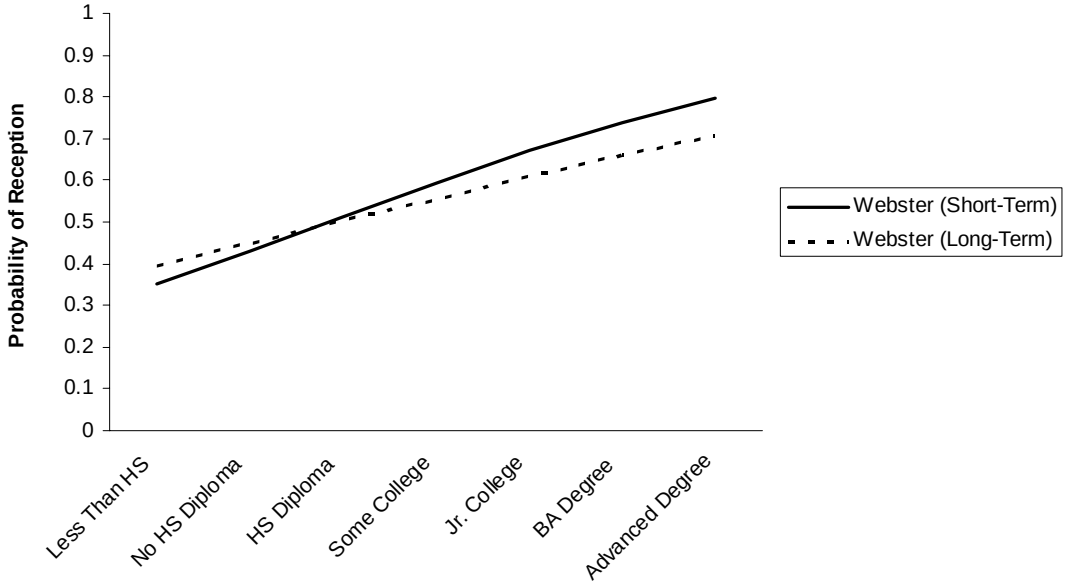


Figure 3.3. The Effect of Consuming Television News on Receiving *Stanford*

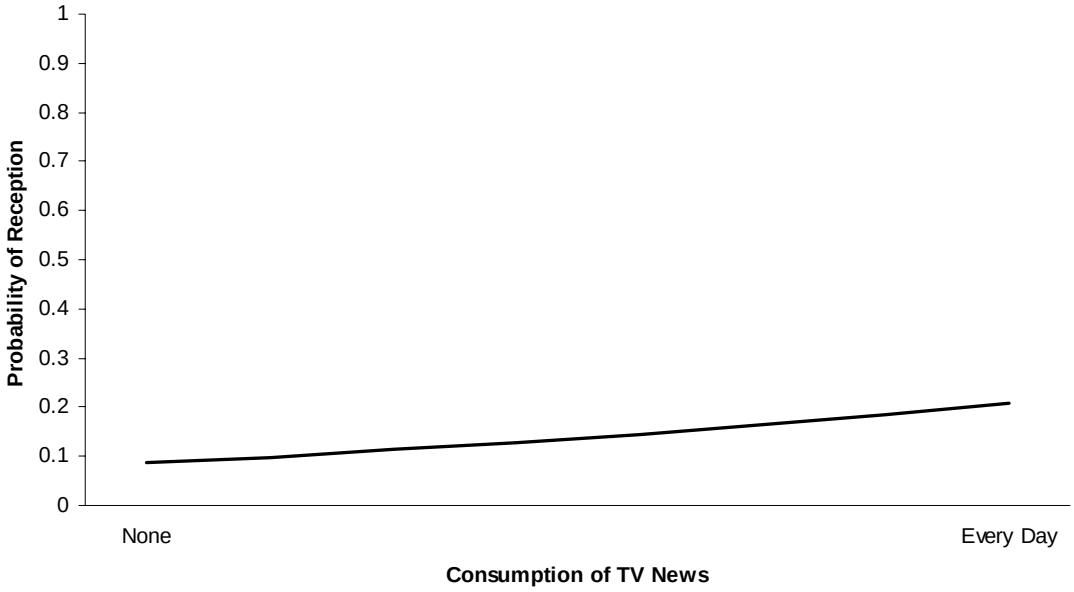


Figure 3.4. The Effect Talking Politics on Short-Term Reception of *Webster*

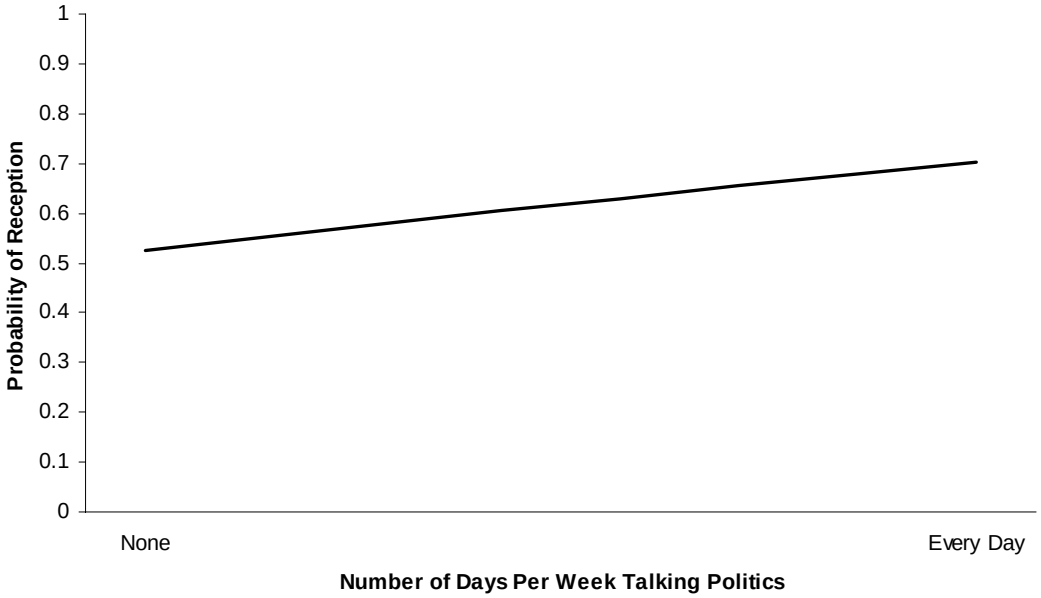


Figure 3.5. The Effect of Age on Long Term Reception of *Webster*

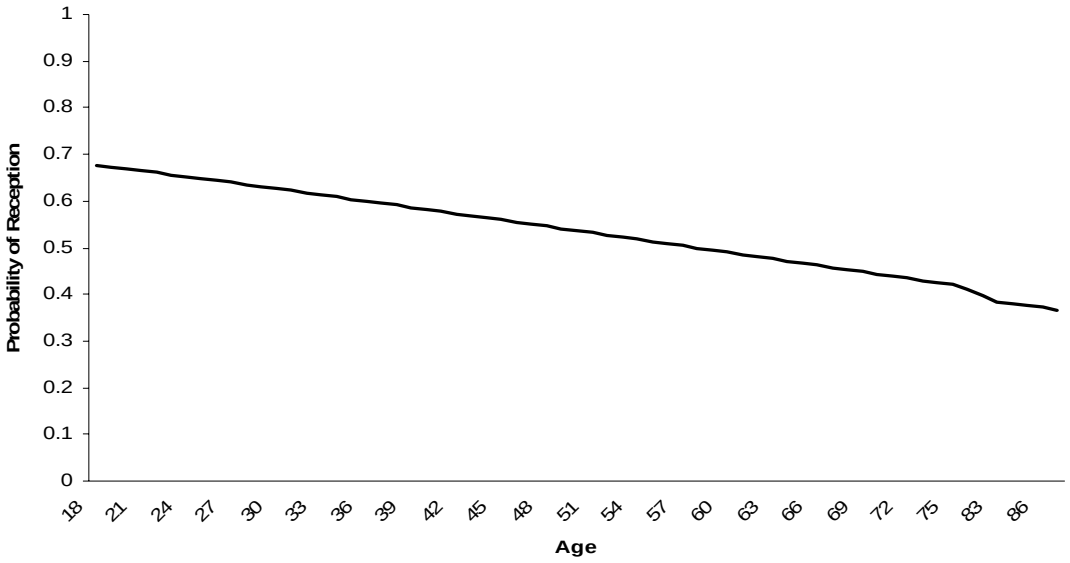


Figure 3.6. The Effect of Church Attendance on Long Term Reception of *Webster*

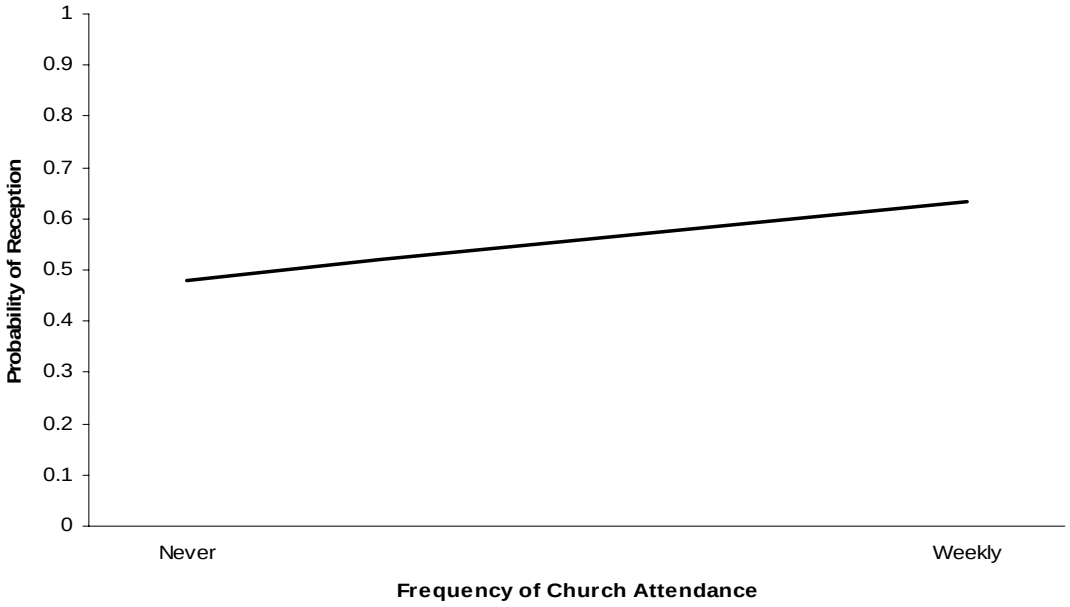


Table 4.1. Individual-Level Attitude Change on Abortion and the Death Penalty

	Short-Term Change	Long-Term Change
Abortion		
% Allowing Abortion in More Circumstances After the *Webster*	21%	23%
% Allowing Abortion in Fewer Circumstances After the *Webster*	14%	14%
Death Penalty		
% More Supportive of the Death Penalty After *Stanford*	13%	n/a
% Less Supportive of the Death Penalty after *Stanford*	15%	n/a

Table 4.2. Change in Support for Abortion and the Death Penalty by Receiving *Webster* and *Stanford*

	% Allowing More Abortions After *Webster*	No change	% Allowing Fewer Abortions After *Webster*
Short-Term			
Received *Webster*	19%	71%	10%
Did Not Receive *Webster*	22%	60%	18%
Long-Term			
Received *Webster*	18%	74%	9%
Did Not Receive *Webster*	29%	55%	16%
	% With More Support for the Death Penalty	No Change	% With Less Support for the Death Penalty
Received *Stanford*	17%	65%	18%
Did Not Receive *Stanford*	12%	73%	15%

Table 4.3. MNL Regression Results for the Short-Term Effects of Receiving *Webster* on Abortion Attitudes

	Model 1		Model 2		Model 3		Model 4		Model 5		Model 6	
	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions
Received Webster	-0.53*	0.25	0.19	0.31	-0.54	-1.00	-0.25	0.30	0.48	0.19	-0.62	-0.52
	(0.32)	(0.32)	(0.79)	(0.52)	(1.18)	(1.15)	(0.66)	(0.63)	(0.95)	(0.95)	(0.45)	(0.43)
Initial Position	0.56***	-1.52***	0.71***	-1.51***	0.56***	-1.53***	0.56***	-1.52***	0.59***	-1.53***	0.44**	-1.63***
	(0.18)	(0.19)	(0.24)	(0.27)	(0.18)	(0.19)	(0.18)	(0.19)	(0.18)	(0.19)	(0.18)	(0.20)
Political Info.	-0.18**	-0.05	-0.18*	-0.05	-0.18*	-0.04	-0.14	-0.04	0.31	-0.16	-0.15	-0.04
	(0.09)	(0.09)	(0.09)	(0.09)	(0.09)	(0.09)	(0.11)	(0.13)	(0.35)	(0.34)	(0.10)	(0.09)
SCOTUS Therm.	0.01	0.01	0.01	0.01	0.01	0.00	0.01	0.01	0.01	0.01	0.01	0.01*
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Catholic	0.87***	0.21	0.88***	0.21	0.88***	0.26	0.88***	0.21	0.94***	0.21	0.83**	0.12
	(0.32)	(0.33)	(0.32)	(0.33)	(0.32)	(0.33)	(0.32)	(0.33)	(0.33)	(0.33)	(0.33)	(0.35)
Church Att.	0.29***	-0.27***	0.28**	-0.27***	0.29***	-0.26**	0.29***	-0.27***	0.31***	-0.28***	0.25**	-0.34***
	(0.11)	(0.10)	(0.11)	(0.10)	(0.11)	(0.10)	(0.11)	(0.10)	(0.11)	(0.10)	(0.11)	(0.11)
Republican	-0.00	1.09*	0.01	1.09*	-0.00	1.00*	-0.03	1.09*	-0.07	1.10*		
	(0.54)	(0.58)	(0.54)	(0.58)	(0.54)	(0.58)	(0.54)	(0.58)	(0.54)	(0.58)		
Democrat	-0.13	0.71	-0.11	0.72	-0.13	0.63	-0.15	0.71	-0.21	0.72	-0.35	-1.11**
	(0.54)	(0.58)	(0.54)	(0.58)	(0.54)	(0.58)	(0.54)	(0.58)	(0.54)	(0.59)	(0.45)	(0.46)
Liberal	0.03	-0.62	0.08	-0.62	0.03	-0.62	0.05	-0.62	0.09	-0.62	-0.17	-0.53
	(0.55)	(0.51)	(0.55)	(0.52)	(0.55)	(0.52)	(0.55)	(0.51)	(0.55)	(0.52)	(0.60)	(0.57)
Conservative	-0.12	-1.10**	-0.09	-1.10**	-0.12	-1.09**	-0.12	-1.10**	-0.04	-1.11**	-0.19	-0.72
	(0.52)	(0.47)	(0.52)	(0.47)	(0.52)	(0.48)	(0.52)	(0.47)	(0.52)	(0.48)	(0.56)	(0.53)
Female	-0.35	0.27	-0.34	0.27	-0.35	0.25	-0.35	0.27	-0.39	0.29	-0.33	0.48
	(0.32)	(0.30)	(0.32)	(0.30)	(0.32)	(0.30)	(0.32)	(0.30)	(0.32)	(0.30)	(0.33)	(0.32)
Black	0.57	0.63	0.54	0.63	0.57	0.61	0.59	0.63	0.65	0.62	0.73	0.71
	(0.54)	(0.54)	(0.54)	(0.54)	(0.54)	(0.54)	(0.54)	(0.54)	(0.54)	(0.54)	(0.55)	(0.57)
Received Webster x. Initial Position			-0.32	-0.01								
			(0.32)	(0.34)								
Received Webster x. SCOTUS Therm.					0.00	0.02						
					(0.02)	(0.02)						
Received Webster x. Pol. Info.							-0.08	-0.01	-0.81	0.13		
							(0.17)	(0.17)	(0.59)	(0.54)		
Pol. Info Sq.									-0.08	0.02		
									(0.06)	(0.06)		
Received Webster x. Pol. Info. Sq.									0.12	-0.03		
									(0.09)	(0.08)		
Received Webster x. Democrat											0.46	1.50**
											(0.61)	(0.61)
Constant	-2.92***	0.59	-3.33***	0.56	-2.90**	1.27	-3.00***	0.58	-3.56***	0.67	-2.57**	1.71*
	(1.01)	(0.90)	(1.10)	(0.93)	(1.18)	(1.08)	(1.02)	(0.91)	(1.10)	(0.96)	(1.05)	(0.91)
Observations	467	467	467	467	467	467	467	467	467	467	428	428
log likelihood	-328.319		-327.818		-327.664		-328.199		-326.844		-300.230	
PseudoR2	0.191		0.192		0.193		0.191		0.195		0.195	

Standard errors in parentheses, * significant at 10%; ** significant at 5%; *** significant at 1% (two-tailed)

Table 4.4. MNL Regression Results for the Long-Term Effect of Receiving Webster on Abortion Attitudes

	Model 1		Model 2		Model 3		Model 4		Model 5		Model 6	
	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions	Fewer Abortions	More Abortions
Received Webster	-0.59	-0.27	0.39	-0.07	-0.96	-1.29	1.42	-0.34	0.25	-3.73	-1.16	-0.27
	(0.42)	(0.37)	(1.06)	(0.60)	(1.52)	(1.39)	(0.88)	(0.88)	(1.46)	(2.56)	(0.85)	(0.64)
Initial Position	0.84***	-1.29***	1.01***	-1.22***	0.84***	-1.31***	0.81***	-1.29***	0.81***	-1.34***	0.76**	-1.24***
	(0.24)	(0.20)	(0.31)	(0.28)	(0.24)	(0.21)	(0.24)	(0.20)	(0.24)	(0.21)	(0.34)	(0.25)
Political Info.	-0.35***	0.02	-0.35***	0.02	-0.35***	0.03	-0.14	0.03	-0.13	-0.37	-0.45**	0.03
	(0.12)	(0.10)	(0.12)	(0.10)	(0.12)	(0.10)	(0.14)	(0.13)	(0.44)	(0.38)	(0.19)	(0.14)
SCOTUS Therm.	0.00	0.02**	0.00	0.02**	0.00	0.01	0.01	0.02**	0.01	0.02*	-0.01	0.03**
	(0.01)	(0.01)	(0.01)	(0.01)	(0.02)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.02)	(0.01)
Catholic	0.70	-0.28	0.72	-0.29	0.71	-0.25	0.79*	-0.28	0.81*	-0.36	1.22*	-0.64
	(0.45)	(0.40)	(0.45)	(0.40)	(0.45)	(0.40)	(0.46)	(0.40)	(0.47)	(0.41)	(0.65)	(0.54)
Church Att.	0.42***	-0.18	0.41***	-0.19	0.42***	-0.18	0.42***	-0.18	0.43***	-0.20	0.51**	-0.19
	(0.15)	(0.12)	(0.15)	(0.12)	(0.15)	(0.12)	(0.15)	(0.12)	(0.15)	(0.12)	(0.23)	(0.15)
Republican	-0.86	0.41	-0.84	0.41	-0.88	0.39	-1.02*	0.39	-1.03*	0.42		
	(0.60)	(0.64)	(0.61)	(0.64)	(0.60)	(0.64)	(0.62)	(0.65)	(0.62)	(0.66)		
Democrat	-0.77	0.74	-0.75	0.75	-0.78	0.75	-0.83	0.72	-0.87	0.72	-0.20	0.25
	(0.62)	(0.65)	(0.63)	(0.65)	(0.62)	(0.64)	(0.64)	(0.65)	(0.64)	(0.66)	(0.82)	(0.61)
Liberal	0.06	-0.48	0.06	-0.47	0.05	-0.50	0.27	-0.46	0.23	-0.47	0.06	0.88
	(0.79)	(0.60)	(0.79)	(0.60)	(0.79)	(0.60)	(0.80)	(0.60)	(0.80)	(0.60)	(1.36)	(1.23)
Conservative	0.30	-0.70	0.30	-0.70	0.30	-0.69	0.33	-0.68	0.31	-0.76	0.81	0.92
	(0.72)	(0.55)	(0.72)	(0.55)	(0.72)	(0.55)	(0.73)	(0.55)	(0.74)	(0.56)	(1.29)	(1.21)
Female	-0.99**	0.01	-0.96**	0.01	-0.99**	0.02	-1.03**	0.02	-1.04**	0.08	-1.18*	-0.15
	(0.42)	(0.34)	(0.42)	(0.34)	(0.42)	(0.34)	(0.43)	(0.34)	(0.43)	(0.34)	(0.66)	(0.43)
Black	-0.09	-0.61	-0.10	-0.60	-0.09	-0.59	0.03	-0.61	0.08	-0.75	0.48	-0.17
	(0.78)	(0.71)	(0.79)	(0.71)	(0.78)	(0.71)	(0.80)	(0.71)	(0.81)	(0.73)	(0.99)	(0.86)
Received Webster x. Initial Position			-0.42	-0.14								
			(0.42)	(0.36)								
Received Webster x. SCOTUS Therm.					0.01	0.01						
					(0.02)	(0.02)						
Received Webster x. Pol. Info.							-0.60**	0.02	0.20	1.88		
							(0.24)	(0.21)	(0.92)	(1.18)		
Pol. Info Sq.									-0.00	0.07		
									(0.07)	(0.06)		
Received Webster x. Pol. Info. Sq.									-0.11	-0.23*		
									(0.14)	(0.13)		
Received Webster x. Democrat											0.45	0.20
											(1.15)	(0.86)
Constant	-2.30*	0.15	-2.75*	0.04	-2.09	0.63	-2.86**	0.14	-2.83*	0.77	-2.25	-1.53
	(1.32)	(1.10)	(1.43)	(1.12)	(1.54)	(1.27)	(1.37)	(1.11)	(1.48)	(1.20)	(2.13)	(1.70)
Observations	317	317	317	317	317	317	317	317	317	317	196	196
log likelihood	-222.650		-222.119		-222.345		-219.275		-217.023		-125.990	
PseudoR2	0.199		0.201		0.200		0.211		0.219		0.215	

Standard errors in parentheses, * significant at 10%; ** significant at 5%; *** significant at 1% (two-tailed)

Figure 4.1. The Probability of Becoming More Conservative on Abortion by Reception of *Webster* and Consumption of Elite Cues, Long Term Model (Linear Relationship with 90% C.I)

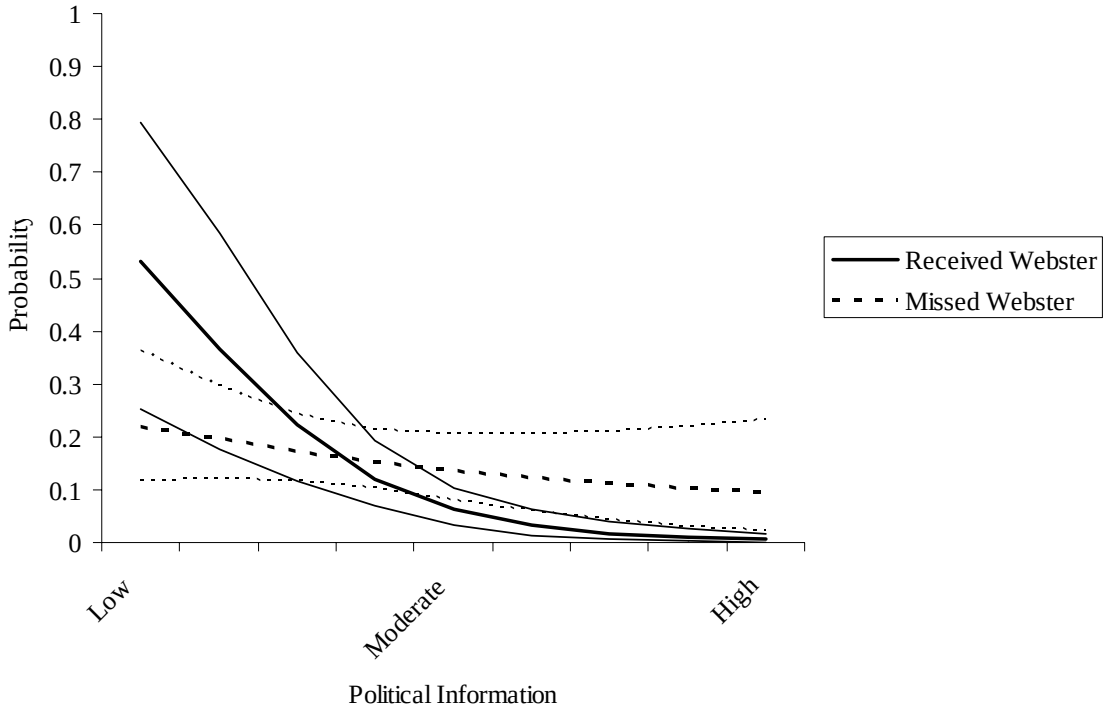


Figure 4.2. The Probability of Becoming More Liberal on Abortion by Reception of *Webster* and Consumption of Elite Cues, Long-Term Model (Non-Linear Relationship with 90% C.I.)

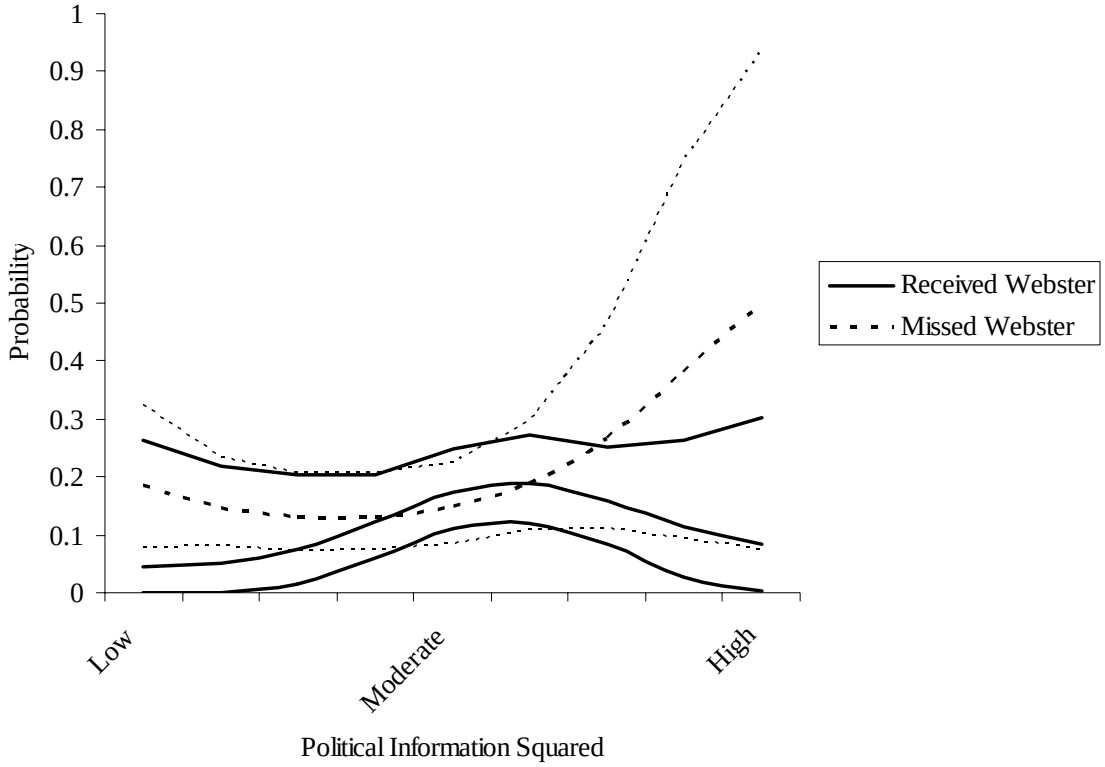


Figure 4.3. The Probability of Becoming More Liberal on Abortion by Reception of *Webster* and Party Identification, Short-Term Model (90% C.I.)

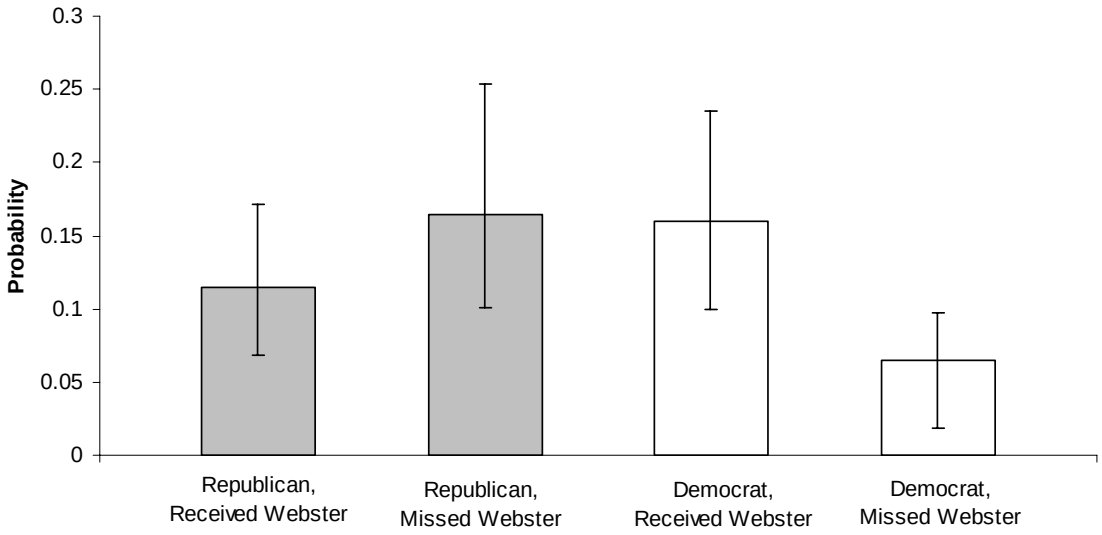


Figure 4.4. The Probability of Becoming More Conservative on Abortion by Reception of *Webster* and Party Identification, Long-Term Model (90% C.I.)

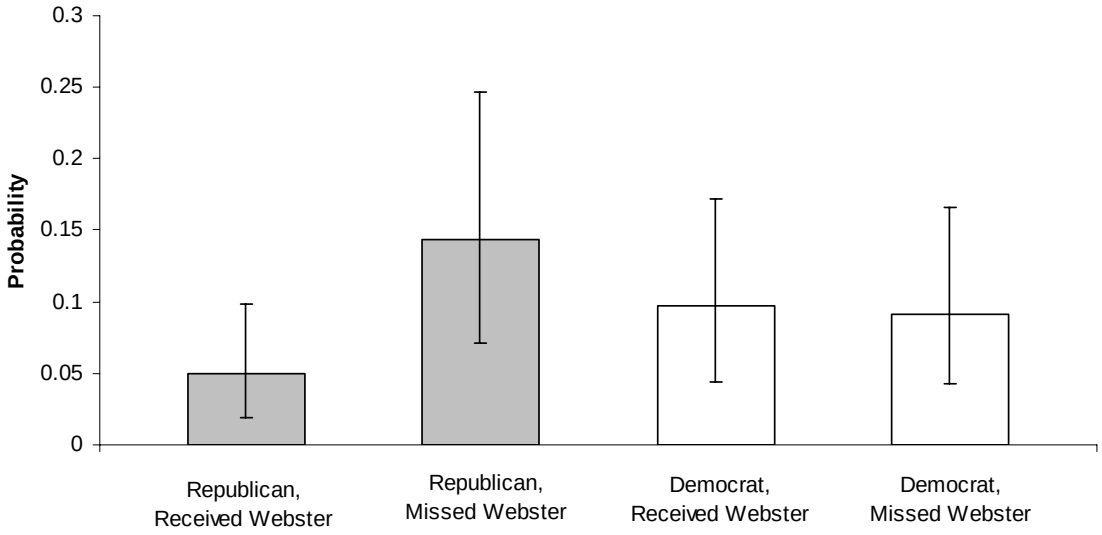


Table 4.5. Ordered Probit Regression Results for Death Penalty Models

	Model 1	Model 2	Model 3	Model 4	Model 5
Comprehension	-0.06	0.23	0.27	0.85	1.80
	(0.17)	(0.34)	(0.66)	(0.53)	(1.11)
Initial Position	-0.43***	-0.42***	-0.43***	-0.43***	-0.43***
	(0.07)	(0.07)	(0.07)	(0.07)	(0.07)
Pol. Info.	-0.02	-0.01	-0.02	0.00	0.19
	(0.04)	(0.04)	(0.04)	(0.04)	(0.13)
SCOTUS Therm.	-0.00	0.00	0.00	-0.00	-0.00
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Catholic	-0.65***	-0.63***	-0.65***	-0.67***	-0.67***
	(0.15)	(0.15)	(0.15)	(0.15)	(0.15)
Church Attendance	-0.12***	-0.14***	-0.12***	-0.12***	-0.12***
	(0.04)	(0.05)	(0.04)	(0.04)	(0.04)
Republican	-0.27	-0.30	-0.27	-0.29	-0.31
	(0.24)	(0.24)	(0.24)	(0.24)	(0.24)
Democrat	-0.52**	-0.54**	-0.52**	-0.52**	-0.57**
	(0.24)	(0.24)	(0.24)	(0.24)	(0.24)
Liberal	-0.30	-0.28	-0.29	-0.33	-0.33
	(0.26)	(0.26)	(0.26)	(0.26)	(0.26)
Conservative	-0.20	-0.21	-0.20	-0.23	-0.25
	(0.24)	(0.24)	(0.24)	(0.24)	(0.24)
Female	0.02	0.07	0.03	0.01	0.00
	(0.13)	(0.14)	(0.13)	(0.13)	(0.14)
Black	-0.62**	-0.61**	-0.63**	-0.62**	-0.59**
	(0.27)	(0.27)	(0.27)	(0.27)	(0.27)
Comprehension x.		-0.16			
Initial Position		(0.15)			
Comprehension x.			-0.00		
SCOTUS Therm.			(0.01)		
Comprehension x.				-0.20*	-0.76
Political Information				(0.11)	(0.51)
Pol. Info. Squared					-0.03
					(0.02)
Comprehension x.					0.07
Pol Info Sq.					(0.06)
Observations	401	398	401	401	401
log likelihood	-280.714	-276.696	-280.576	-279.052	-277.615
PseudoR2	0.108	0.109	0.109	0.114	0.118

Standard errors in parentheses, * significant at 10%; ** significant at 5%; *** significant at 1% (two-tailed)

Figure 4.5. The Probability of Becoming More Supportive of the Death Penalty by Reception of *Stanford* and Consumption of Elite Cues (90 % C.I.)

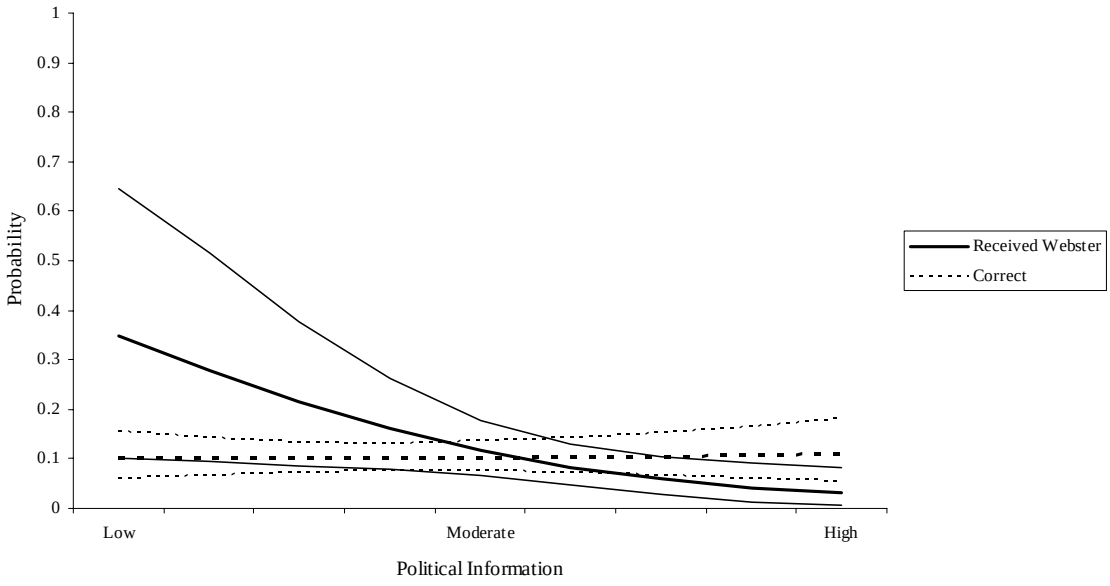


Table 5.1. Attitudes Before and After *Van Orden* and *McCreary*

	Van Orden (TX)	*McCreary* (KY)
% of Individuals Becoming More Supportive of the Ten Commandment Display Over Time (Don't Know Excluded)	17%	16%
% of Individuals Becoming Less Supportive of the Ten Commandment Display Over Time (Don't Know Excluded)	15%	21%

Table 5.2. Change in Support for the Ten Commandment Displays by Reception of the Cases

	Shifted to More Support	No Change	Shifted to Less Support
Van Orden (TX)			
Received *Van Orden*	20%	63%	16%
Missed *Van Orden*	16%	72%	12%
McCreary (KY)			
Received *McCreary*	8%	68%	24%
Missed *McCreary*	21%	60%	19%

Table 5.3. Ordered Probit Regression Results for *Van Orden v. Perry* and *McCreary* v. *ACLU*.

	Model 1		Model 2		Model 3		Model 4		Model 5	
	Van Orden	*McCreary*	*Van Orden*	*McCreary*	*Van Orden*	*McCreary*	*Van Orden*	*McCreary*	*Van Orden*	*McCreary*
Received Case	-0.352	-0.612**	0.588	-0.540	-0.976	-0.066	-1.366**	-1.006	-1.165	-1.864
	(0.284)	(0.278)	(0.457)	(0.399)	(0.905)	(0.957)	(0.638)	(0.704)	(1.298)	(1.511)
Initial Position	-0.667***	-0.444***	-0.431**	-0.425***	-0.663***	-0.456***	-0.696***	-0.453***	-0.786***	-0.469***
	(0.163)	(0.144)	(0.185)	(0.163)	(0.163)	(0.145)	(0.165)	(0.145)	(0.174)	(0.147)
Pol. Info.	0.067	0.025	0.094	0.028	0.062	0.025	-0.056	-0.004	-0.665*	-0.403
	(0.067)	(0.066)	(0.070)	(0.066)	(0.068)	(0.066)	(0.097)	(0.081)	(0.352)	(0.271)
SCOTUS Therm.	0.003	0.004	0.003	0.003	-0.002	0.006	0.002	0.004	0.003	0.003
	(0.007)	(0.007)	(0.007)	(0.007)	(0.010)	(0.009)	(0.007)	(0.007)	(0.007)	(0.007)
Liberal	0.109	0.563*	0.061	0.548*	0.122	0.561*	0.121	0.569*	0.103	0.615**
	(0.305)	(0.298)	(0.310)	(0.304)	(0.306)	(0.298)	(0.308)	(0.298)	(0.312)	(0.303)
Conservative	0.380	0.036	0.781*	0.049	0.340	0.052	0.422	0.050	0.555	0.074
	(0.429)	(0.397)	(0.465)	(0.400)	(0.433)	(0.399)	(0.434)	(0.398)	(0.449)	(0.405)
Democrat	-0.531*	-0.244	-0.513*	-0.235	-0.539*	-0.256	-0.552*	-0.236	-0.508*	-0.222
	(0.301)	(0.291)	(0.306)	(0.294)	(0.302)	(0.292)	(0.303)	(0.292)	(0.307)	(0.293)
Republican	0.187	0.696*	0.184	0.696*	0.186	0.674*	0.144	0.690*	0.158	0.710*
	(0.382)	(0.373)	(0.391)	(0.373)	(0.383)	(0.375)	(0.387)	(0.373)	(0.398)	(0.384)
Christian	0.592**	0.401	0.615**	0.401	0.562**	0.416	0.511*	0.381	0.605**	0.350
	(0.281)	(0.270)	(0.285)	(0.270)	(0.285)	(0.271)	(0.287)	(0.272)	(0.293)	(0.279)
Church Attend.	0.049	-0.142	0.071	-0.142	0.048	-0.142	0.070	-0.137	0.083	-0.120
	(0.115)	(0.109)	(0.116)	(0.109)	(0.115)	(0.109)	(0.116)	(0.109)	(0.118)	(0.110)
Received Case x. Initial position			-0.727***	-0.062						
			(0.276)	(0.249)						
Received Case x. SCOTUS Therm.					0.011	-0.009				
					(0.015)	(0.015)				
Received Case x. Pol. Info.							0.243*	0.081		
							(0.136)	(0.133)		
									0.095*	0.055
									(0.052)	(0.037)
Received Case x. Pol. Info. Sq.									0.441	0.607
									(0.588)	(0.611)
									-0.055	-0.066
									(0.068)	(0.061)
Observations	106	107	106	107	106	107	106	107	106	107
log likelihood	-78.194	-86.734	-74.594	-86.703	-77.929	-86.557	-76.577	-86.547	-74.554	-85.246
PseudoR2	0.130	0.117	0.170	0.118	0.133	0.119	0.148	0.119	0.170	0.132

Standard errors in parentheses, * significant at 10%; ** significant at 5%; *** significant at 1% (two-tailed)

Figure 5.1. The Probability of Losing Support for the Texas Display by Reception of *Van Orden* and Initial Position (90% C.I.)

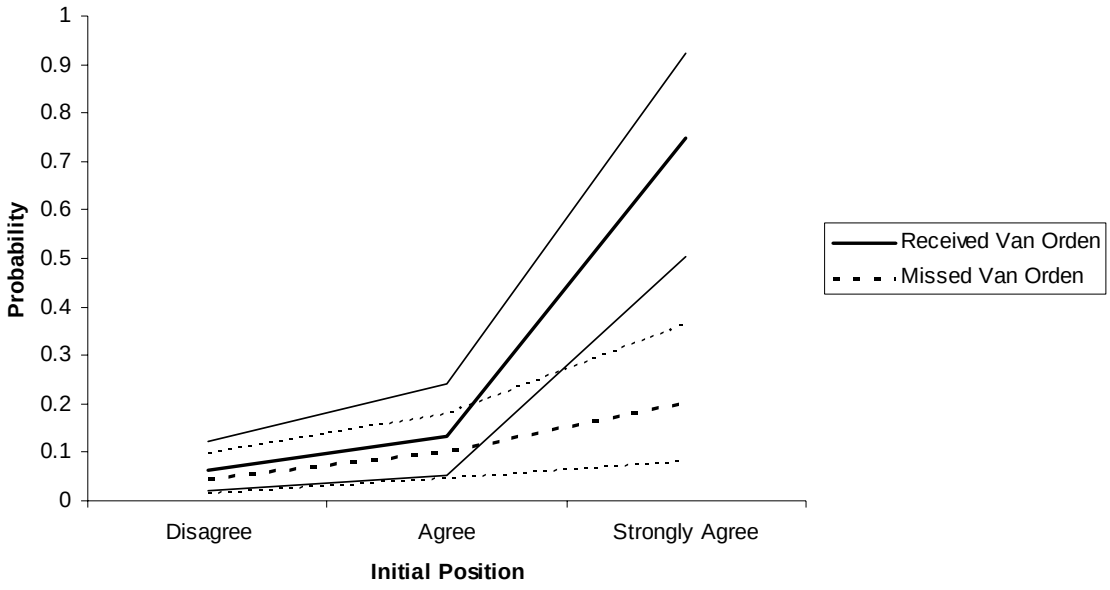


Figure 5.2 The Probability of Losing Support for the Texas Display by Reception of *Van Orden* and Initial Position (90% C.I.)

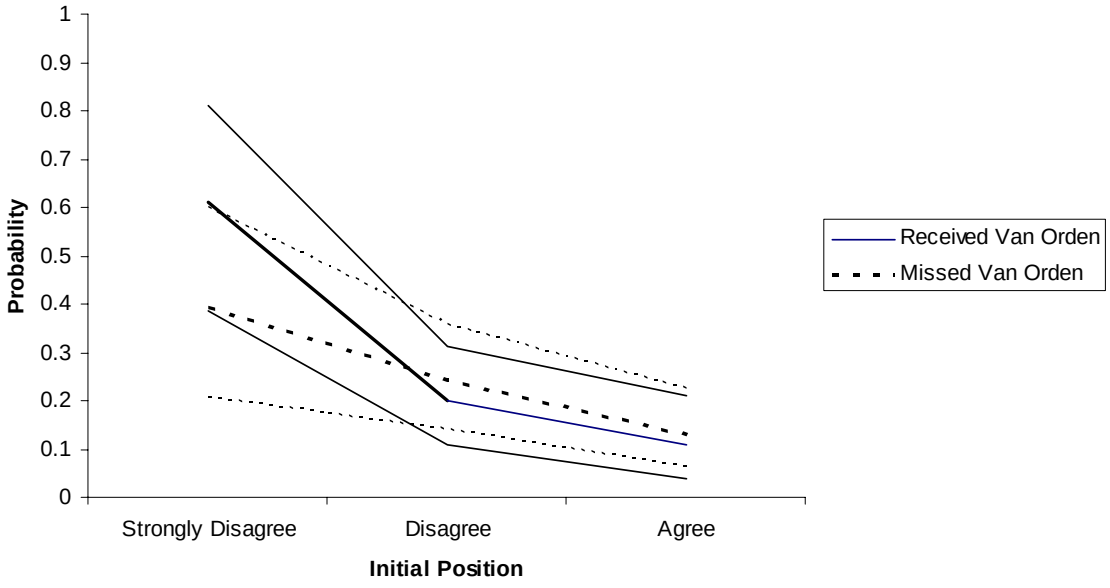


Table 5.4. Ordered Probit Regression Results for the *Comprehension-Geographic Proximity Hypotheses*

	Model 6 *McCreary*	Model 7 *McCreary*
Received *Van Orden*	-0.029	-0.279
	(0.461)	(0.378)
Received *McCreary*	-0.461*	0.441
	(0.355)	(0.667)
Received Both Cases		-0.984*
		(0.756)
Initial Position	-0.672***	-0.511***
	(0.169)	(0.152)
Political Information	0.071	0.014
	(0.072)	(0.070)
SCOTUS Therm.	0.005	0.005
	(0.007)	(0.007)
Liberal	0.196	0.570*
	(0.317)	(0.302)
Conservative	0.279	0.403
	(0.438)	(0.432)
Democrat	-0.613*	-0.292
	(0.312)	(0.296)
Republican	0.276	0.435
	(0.397)	(0.391)
Christian	0.592*	0.368*
	(0.295)	(0.277)
Church Attendance	-0.024	-0.152*
	(0.117)	(0.111)
Observations	101	104
log likelihood	-73.876	-82.259
PseudoR2	0.144	0.139

Standard errors in parentheses, * significant at 10%; ** significant at 5%; *** significant at 1% (one-tailed)

Figure 5.3. The Probability of Losing Support for the Texas Display by Reception of *Van Orden* and Consumption of Elite Cues (90% C.I.)

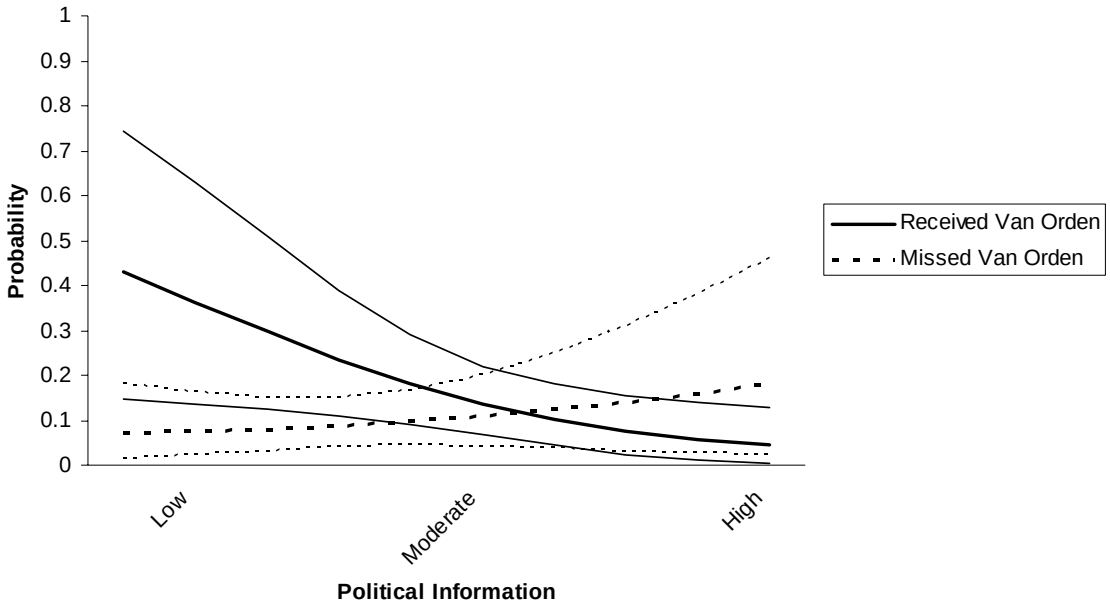


Figure 5.4 The Probability of Gaining Support for the Texas Display by Reception of *Van Orden* and Consumption of Elite Cues (90% C.I.)

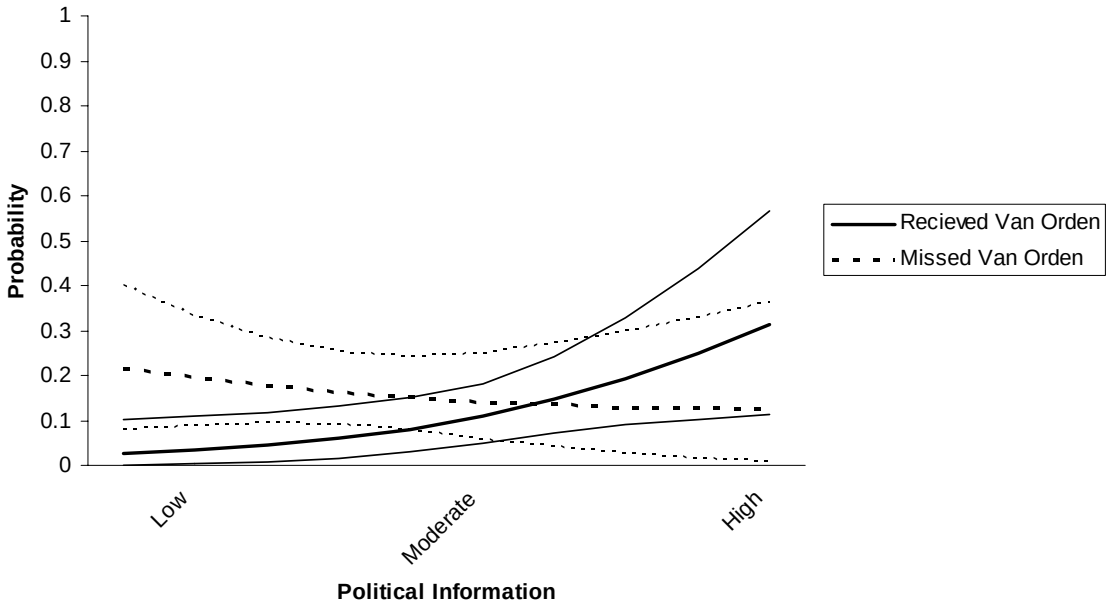
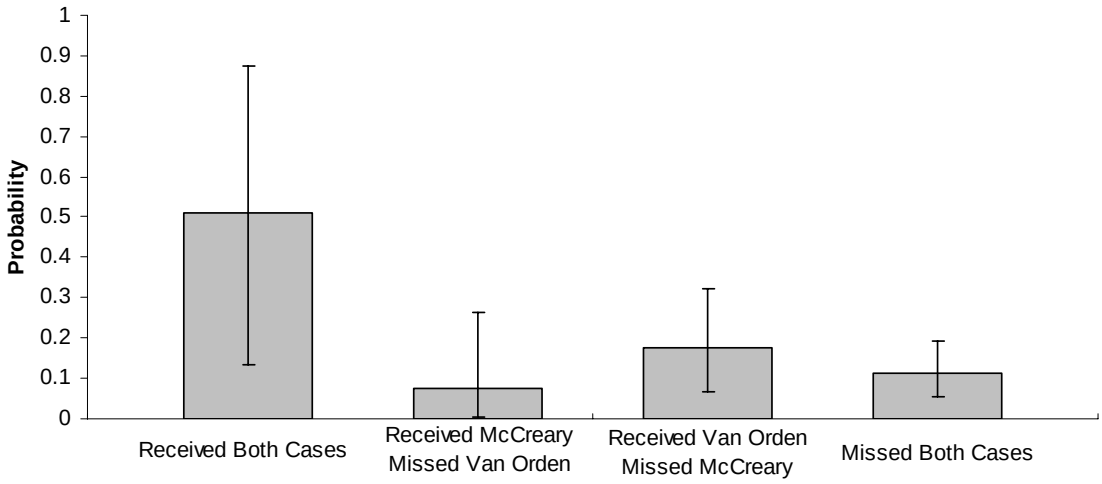


Figure 5.5. The Probability of Losing Support for the Kentucky Display by Reception of Both Cases (90% C.I.)



Appendix A: IRB Approval

APPROVED BY IRB ON: 6/16/2005 EXPIRES ON: 6/16/2006

Title: Political Knowledge and Political Attitudes
IRB PROTOCOL # 2005-00-76
Conducted By: Michael A. Unger of the University of Texas at Austin, Department of Government, (512) 471-5121, Professor Daron Shaw of the University of Texas at Austin, Department of Government, (512) 471-5121.

You are being asked to participate in a research study. This form provides you with information about the study. The person in charge of this research will also describe this study to you and answer all of your questions. Please read the information below and ask questions about anything you don't understand before deciding whether or not to take part. Your participation is entirely voluntary and you can refuse to participate without penalty or loss of benefits to which you are otherwise entitled. You can stop your participation at any time by simply telling the researcher.

If you are under 18, then you are not eligible to participate.

The purpose of this study is to measure political knowledge and political attitudes.

If you agree to be in this study, we will ask you to do the following things:

- To complete two surveys at different times during your regularly scheduled class

Total estimated time to participate in study is 15 minutes per survey.

Risks and Benefits of being in the study

- The risk associated with this study is no greater than everyday life.
- There are no benefits for participation in this study

Compensation:

- There is no compensation for participation

The **records** of this study will be stored securely and kept private. Authorized persons from The University of Texas at Austin, members of the Institutional Review Board, and (study sponsors, if any) have the legal right to review your research records and will protect the **confidentiality** of those records to the extent permitted by law. All publications will exclude any information that will make it possible to identify you as a subject.

Contacts and Questions:

If you have any questions about the study please ask now. If you have questions later or want additional information, call the researchers conducting the study. Their names, phone numbers, and e-mail addresses are at the top of this page.

If you have questions about your rights as a research participant, please contact Clarke A. Burnham, Ph.D., Chair, The University of Texas at Austin Institutional Review Board for the Protection of Human Subjects, (512) 232-4383.

You will be given a copy of this information to keep for your records.

Statement of Consent:

I have read the above information and have sufficient information to make a decision about participating in this study. I consent to participate in the study.

Signature:_____ Date: _____

_____ Date: _____
Signature of Person Obtaining Consent

Signature of Investigator:_____ Date: _____

Participant Debriefing Form

Title: Political Communication and Political Attitudes

IRB PROTOCOL

Conducted By: Michael A. Unger of the University of Texas at Austin, Department of Government, 471-5121 and Professor Daron Shaw of the University of Texas at Austin, Department of Government, 471-5121

You just participated in an investigation of the US Supreme Court's influence on public opinion regarding two issues: The Ten Commandments posted on public grounds and the use of medicinal marijuana. Research in political science has shown that the Court can influence public opinion under certain circumstances, but not others. This study seeks to answer several questions related to this research:

1. Does being exposed to Supreme Court cases influence the public's position on these two issues?
2. Do understanding Supreme Court decisions have an influence on the public's position on these two issues that is distinct from being exposed to the case?
3. Is this process affected by individual characteristics or one's knowledge of politics?

Please indicate whether you agree to have the data from your questionnaire included in the study:

Yes _____ No_____

Signature:_____ Date: _____

Appendix B: 2005 Experiment

UT EID: _____

Participation in this survey is voluntary and does not have any influence on student grades. You may stop participating at any point of this survey.

Please answer the following questions by filling in the appropriate blank or by circling the answer that describes your position the best:

1. What job or political office does Bill Frist hold?
_____

2. Who is the Secretary of State?
_____

3. What job or office does William Rehnquist hold?
_____

4. What job or political office does Vladimir Putin hold?
_____

5. What job or political office does Tony Blair hold?
_____

6. What job or political office does Mahmoud Abbas hold?
_____

7. Who is the Speaker of the US House of Representatives?
_____

8. Which party had the most members in the House of Representatives this session?
_____

9. Which party had the most members in the U.S. Senate this session?
_____

10. How old are you?
_____

11. What is your race or ethnicity?
_____

12. What is your gender?

_____

13. What is the highest level of education that you have completed?

Less than HS High School Some College College or Beyond

14. Is your religious preference Protestant, Roman Catholic, Jewish or Something Else (If something else, please specify)?
_____

15. How often would you say that you go to (church/synagogue/other)?
_____

16. How many days in a week do you read a daily newspaper?
_____

17. How many days in a week do you watch television news broadcast?
_____

18. How many days in a week do you get news from the Internet?
_____

19. On a scale of 0 to 100, please rate the following people, groups, and institutions. A score of 0 means you do not like the person, group or institution at all. A score of 100 means that you like the person, group or institution a great deal. A score of 50 means that you neither like nor dislike the person, group or institution. You may use any number between 0 and 100 for your rating.

George W. Bush _____

John Kerry _____

Congress _____

US Supreme Court _____

The Democratic Party _____

The Republican Party _____

Liberals _____

Conservatives _____

20. What do you think is the most important problem facing the country today?
_____

21. Generally speaking, do you usually think of yourself as a Republican, a Democrat, an Independent or what?

Republican
Independent
Democrat
Other Party (If other, please specify _____)
Don't Know

22. When it comes to politics, do you usually think of yourself as a liberal, a conservative, a moderate?

Liberal
Moderate
Conservative
Don't Know

[Questions 23 – 27 Randomized on Four Different Forms]

You may have heard that some people want to remove the Ten Commandments from display on public buildings such the grounds of state capitol buildings or courthouses while others want it to remain.

23. Do you agree or disagree with the Ten Commandments being displayed on the grounds of the Texas state capitol?

Strongly Agree
Agree
Disagree
Strongly Disagree
Don't Know

24. Do you agree or disagree with the Ten Commandments being posted in a courtroom?

Strongly Agree
Agree
Disagree
Strongly Disagree
Don't Know

25. You may have heard of recent debate over whether same-sex couples should be permitted to be married.

Do you agree or disagree that people of the same sex should be legally allowed to get married?

Strongly Agree
Agree
Disagree
Strongly Disagree

Don’t Know

26. On the issue of affirmative action, do you agree or disagree with public universities and colleges considering race when evaluating students for admission?

Strongly Agree
Agree
Disagree
Strongly Disagree
Don’t Know

27. There has been a lot of discussion lately about athletes using steroids and other performance enhancing drugs. Do you agree or disagree with banning athletes for life who repeatedly test positive for steroids or other performance enhancing drugs?

Strongly Agree
Agree
Disagree
Strongly Disagree
Don’t Know

Thank you for participating.

Post-Decision Surveys

UT-EID: _____
Participation in this survey is voluntary and does not have any affect on student grades. You may stop participating at any point of this survey.

Please answer the following questions:

You may have heard that some people want to remove the Ten Commandments from display on public buildings such the grounds of state capitol buildings or courthouses while others want it to remain.

1. Do you agree or disagree with the Ten Commandments being displayed on the grounds of the Texas state capitol?

__ Strongly Agree
__ Agree
__ Disagree
__ Strongly Disagree
__ Don't Know

2. Do you agree or disagree with the Ten Commandments being posted in a courtroom?

__ Strongly Agree
__ Agree
__ Disagree
__ Strongly Disagree
__ Don't Know

3. Have you heard of or read about a U.S. Supreme Court case this year about removing the Ten Commandments from display on a state capitol?

__ Yes
__ No
__ Don't Know

If yes, please go on to question 4. If no, please go on to question 5.

4. If yes, do you remember what the Court decided?

_____
_____
_____
_____
_____

5. Have you heard of or read about a U.S. Supreme Court case this year about removing the Ten Commandments from display in a courtroom?

__ Yes

__ No
__ Don't Know

If yes, please go on to question 6. If no, please go on to question 7.

6. If yes, do you remember what the Court decided?

_____
_____
_____
_____
_____

Thank you for participating.

Appendix C: Summary Statistics

Selected Summary Statistics for the 2005 Experiment (Chapter 3)
School: Southwestern Public University (83%), Large Urban Community College (17%)
Gender: Male 51%, Female 49%
Religion: Christian 60%, Non-Christian 40%
Church Attendance: Never (35%), several times a year (39%), monthly (9%), weekly (14%), more than weekly (3%)
Party Identification: Republican (27%), Independent (26%), Democrat (47%)
Ideology: Conservative (16%), Moderate (49%), Liberal (35%)
Race/Ethnicity: White (63%), African-American (2%), Hispanic/Latino (16%), Native American (2%), Asian-American (12%), Middle Eastern (2%), Other (2%)
SCOTUS Thermometer: Mean 60, SD 16.2

Summary Statistics for Chapter 4: *Webster* and *Stanford*

Variable	Obs	Mean	Std. Dev.	Min	Max
Change in Abortion Position (Short Term)	589	0.067912	0.582166	-1	1
Change in Abortion Position (Long Term)	480	0.09375	0.600593	-1	1
Change in Death Penalty Position	500	-0.028	0.528938	-1	1
Reception of *Webster* (Short Term)	610	0.519672	0.500023	0	1
Reception of *Webster* (Long Term)	401	0.508728	0.500548	0	1
Reception of *Stanford*	608	0.164474	0.37101	0	1
Initial Death Penalty Position	524	2.328244	1.026924	0	3
Initial Abortion Position	606	1.808581	1.049042	0	3
Political Information	613	3.278956	1.93999	0	8
SCOTUS Thermometer	580	67.00862	18.00427	0	100
Catholic	570	0.236842	0.425518	0	1
Church Attendance	568	2.110915	1.470469	0	4
Republican	605	0.429752	0.49545	0	1
Democrat	605	0.464463	0.499148	0	1
Liberal	554	0.288809	0.453618	0	1
Conservative	554	0.617329	0.486478	0	1
Female	614	0.604235	0.489413	0	1
Black	613	0.094617	0.292924	0	1

Summary Statistics for Chapter 5: *Van Orden* and *McCreary*

Variable	Mean	Std. Dev.	Min	Max
Change in Position for TX Display (*Van Orden*)	0.027523	0.568603	-1	1
Change in Position on the KY Display (*McCreary*)	0.027523	0.568603	-1	1
Received *Van Orden*	0.38342	0.487484	0	1
Received *McCreary*	0.329787	0.471391	0	1
Initial Position TX Display	1.496815	0.997588	0	3
Initial Position KY Display	1.3625	1.066868	0	3
Political Information	4.095506	2.119824	0	9
SCOTUS Thermometer	60.32768	17.87186	0	100
Liberal	0.380682	0.48694	0	1
Conservative	0.159091	0.366804	0	1
Democrat	0.429379	0.496392	0	1
Republican	0.254237	0.436667	0	1
Christian	0.587571	0.493668	0	1

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